

Resettlement Framework

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TAJ: Climate Resilient Dairy Value Chain Development Project

Prepared by the Ministry of Agriculture of the Republic of Tajikistan, for the Asian Development Bank.

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ABBREVIATIONS

ADB	Asian Development Bank
AH	Affected Household
AP	Affected People
DP	Displaced Person
EA	Executing Agency
FGD	Focus Group Discussion
GOT	Government of Republic of Tajikistan
GRM	Grievance Redress Mechanism
IR	Involuntary Resettlement
LA	Land Acquisition
LARF	Land Acquisition and Resettlement Framework
LAR	Land Acquisition and Resettlement
MOA	Ministry of Agriculture
M&E	Monitoring & Evaluation
NGO	Non-government Organization
PIG	Project Implementation Group
PPTA	Project Preparatory Technical Assistance
PPMS	Project Performance Management System
LARF	Land Acquisition and Resettlement Framework
LARP	Land Acquisition and Resettlement Plan
RRS	Regions under Republican Subordination

GLOSSARY

Displaced Persons (DP)	'In the context of involuntary resettlement, displaced persons are those who are physically displaced (relocation, loss of residential land, or loss of shelter) and/or economically displaced (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.' (ADB SPS 2009)
Detailed Measurement Survey (DMS)	With the aid of the approved detailed engineering design, this activity involves the finalization and/or validation of the results of the inventory of losses (IOL), severity of impacts, and list of DPs. The final cost of resettlement can be determined following completion of the DMS.
Compensation	Payment in cash or in kind to replace losses of lands, housing, income and other assets caused by the Project. All compensation is based on the principle of replacement cost, which is a method of valuing assets to replace the loss at current market rates, plus any transaction costs such as administrative charges, taxes, registration and titling costs.
Cut-off Date	The date after which people will not be considered eligible for compensation.
Dekhan Farm	Midsized land, which is legally and physically distinct from household plots, for which full land use rights, but not ownership, is allocated to either individuals or groups. Regulations concerning dekhan farms in Tajikistan are laid out in Law No. 48 on Dekhan Farms, from 2002.
Encroachers	People who move into the Project area after the cut-off date and are therefore not eligible for compensation or other rehabilitation measures provided by the Project.
Entitlements	The range of measures comprising cash or in-kind compensation, relocation cost, income rehabilitation assistance, transfer assistance, income substitution/business restoration, which are due to DPs, depending on the type, extent and nature of their losses, and which suffice to restore their social and economic base.
Eligibility	Any person who resided in the Project area before the cut-off date that suffers from (i) loss of house, (ii) loss of assets or ability to access such assets, permanently or temporarily, or (iii) loss of income sources or livelihood, will be entitled to compensation and/or assistance.
Household	All persons living under one roof or occupying a separate housing unit, having either direct access to the outside (or to a public area) or a separate cooking facility. Where the members of a household are related by blood or law, they constitute a family. http://www.businessdictionary.com/definition/household.html
Hukumat	District administration in Tajikistan
Income restoration	This is the re-establishment of sources of income and livelihood of the affected households.
Income Restoration Program	A program designed with various activities that aim to support displaced persons to recover their income / livelihood to the pre-Project levels. The program is designed to address the specific needs of the affected persons based on the Socioeconomic (SES) survey and consultations.
Inventory of Losses (IOL)	This is a process in which all fixed assets (i.e. lands used for residence, commerce, agriculture; houses; kiosks, stalls and shops; ancillary structures, such as fences, gates, paved areas and wells, affected trees and crops etc.) with commercial value and sources of income and livelihood inside the Project right-of-way (Project area) are identified, measured, their owners identified, their exact location determined, and their replacement costs calculated.
Jamoat	A sub-district level administration
Land Acquisition	Refers to the process whereby an individual, household, firm or private institution is compelled by a public agency to alienate all or part of the land/assets for public purposes in return for in-kind replacement or compensation at replacement costs.

Land Acquisition and Resettlement Plan (LARP)	A time-bound action plan with budget setting out compensation for affected land/assets and resettlement strategies, objectives, entitlement, actions, responsibilities, monitoring and evaluation.
Non-titled	Means those who have no recognizable rights or claims to the land that they are occupying.
Poor	The poor are persons registered by the Hukumats as poor. The 'poorness' is based on the total score of points assigned for income of each household member, home condition, number of household's members, number and type of belongings such as a car and agricultural machinery, possession of animal livestock as the main poverty indicators.
Presidential Land	Means land for which use rights have been allocated by a Presidential Decree but ownership remains with the state.
Rehabilitation	This refers to additional support provided to DPs losing productive assets, income, employment or sources of living, to supplement payment of compensation for acquired assets, in order to achieve, at a minimum, full restoration of living standards and quality of life.
Replacement cost	The calculation of full replacement cost will be based on the following elements: (i) fair market value; (ii) transaction costs; (iii) interest accrued, (iv) transitional and restoration costs; and (v) other applicable payments, if any.
Reserve Fund Land	Means land owned by the state and controlled by the district administration that may be rented, mainly for agricultural use.
Resettlement	This includes all measures taken to mitigate all adverse impacts of the Project on DP's property and/or livelihood. It includes compensation, relocation (where relevant), and rehabilitation as needed.
Severely Affected	This refers to affected households who will (i) lose 10% or more of their total productive land and/or assets, (ii) have to relocate; and/or (iii) lose 10% or more of their total income sources due to the Project.
Sharecropper	A person who cultivates land s/he does not own for an agreed proportion of the crop or harvest.
Significant impact	Means 200 or more people will experience major impacts, which are defined as; (i) being physically relocated from a house, or (ii) losing 10% or more of their income generating assets.
Vulnerable	Anyone who might suffer disproportionately or face the risk of being marginalized from the effects of resettlement and includes; (i) female-headed households with dependents; (ii) disabled heads of household; (iii) poor households; (iv) landless; (v) elderly households with no means of support; (vi) households without security of tenure; (vii) ethnic minorities; and (viii) small farmers (with landholdings of two hectares or less).

I. INTRODUCTION

1. This Land Acquisition and Resettlement Framework (LARF) has been prepared for the proposed Climate Resilient Dairy Value Chain Development Project. The LARF (i) describes the project and its outputs; (ii) explains the general anticipated land acquisition and involuntary resettlement impacts of the subprojects to be financed under the proposed project; (iii) specifies the requirements that will be followed related to screening and categorization of subprojects, assessment, and planning, including meaningful consultation with affected people and other stakeholders and information disclosure requirements; and (iv) specifies the social safeguard criteria that are to be used in selecting/ excluding subprojects, all with responsibilities of all parties involved. The LARF provisions shall guide the Project Implementation Group (PIG) in the Ministry of Agriculture (MOA), the project executing agency, in selecting, screening, and categorizing of expected subprojects. This LARF includes Land Acquisition and Resettlement Plan (LARP) template to guide the executing agency to prepare LARP in case if such a need arises. This LARF also includes Social Safeguard Screening Checklist for subprojects for FI component under Output 2. The document is based on the applicable laws and regulations of the Republic of Tajikistan, as well as the ADB's Safeguards Policy Statement (SPS) 2009.

A. Project Outline

2. The project will improve food security, enhance environmental sustainability, provide climate mitigation, and increase employment opportunities by increasing productivity and safety of dairy products in Khatlon, the Regions under direct Republican Jurisdiction (RRJ), and Sughd regions. It will integrate the currently scattered and disjointed dairy production and processing systems, improve their productivity and low capacity utilization through policy reforms, institutional capacity strengthening, and increasing access to investment financing. In the process, the project will address degradation of pasturelands and reduce greenhouse gas emission by establishing a controlled and efficient dairy value chains.¹

3. The project is aligned with the following impact: food security improved, environmental sustainability enhanced, and employment opportunities increased.² The project will have the following outcome: productivity and safety of dairy products improved.

4. **Output 1: Enabling environment for dairy value chain development strengthened.** Regulations, government institutions, and capacity of dairy value chain stakeholders will be strengthened to improve productivity, efficiency, profitability, food safety of the dairy value chain. Three main activities are: (i) reviewing key policies, laws, and regulations³ constraining development of effective dairy value chains—animal health, breeding, pastureland management, and taxation on dairy industry—and developing a reforms framework for implementation; (ii) improving capacity of government institutions and dairy value chain stakeholders; (iii) developing dairy value chain business plans of all key stakeholders—dairy farmers; private breeding, concentrate, and fodder enterprises; dairy processors, and financial institutions—to integrate them in dairy hubs. The main areas of support under these outputs are outlined as follows:

¹ ADB. 2016. *Technical Assistance to Tajikistan for Achieving Food Security through Climate Resilience Dairy Value Chain Development*. Manila.

² Government of Tajikistan. 2011. *Agriculture Reform Program of the Republic of Tajikistan for 2012–2020*. Dushanbe.

³ The project will provide support for the review and amendment of laws and decrees: (i) Decree of the Government of the Republic of Tajikistan "On technical regulations for the safety of food products, the safety of meat and meat products, the safety of milk and dairy products", No. 190; (ii) The Law of the Republic of Tajikistan "On Veterinary" No. 674; (iii) The Law of the Republic of Tajikistan "On Livestock Breeding" No. 1020; (iv) The Law on "Pastures", № 951; and (v) Taxation on Dairy Industry (i.e., VAT, Corporate Income Tax, Import Tariff on Feed Components etc.).

- (i) Key laws and regulations to be reviewed and implementation framework developed for: (a) decree of the Government of the Republic of Tajikistan "On technical regulations for the safety of food products, the safety of meat and meat products, the safety of milk and dairy products", No. 190; (b) the Law of the Republic of Tajikistan "On Veterinary" No. 674; (c) The Law of the Republic of Tajikistan "On Livestock Breeding" No. 1020; (d) the Law on "Pastures", № 951; and (e) taxation on Dairy Industry (i.e., VAT, Corporate Income Tax, Import Tariff on Feed Components etc.). These activities will be implemented in a coordinated manner with the World Bank, European Unions and other initiatives with respect to creating synergies. The MOA will ensure that a uniform regulatory framework is approved and functions dealing with food safety (animal and plant health inspection services) by the end of Year -1 of the project.
- (ii) Operational capacity of government institutions will be improved to effectively undertake mandates, functions and implement regulations on breeding, food safety and pasture management. Trainings will be need-based, it will include in-country training, international training, exposure/study visits, collaborative research and development with international organization's and center of excellence.
- (iii) Value chain stakeholders' capacity will be strengthened to develop integrated dairy value chains. Currently there are no formal linkages among the stakeholders. A business model will be developed to efficiently *integrate all actors as stakeholders* in a dairy value chain to optimize their profits. During the preparatory phase, in the first 8–16 months, trainings will be provided on business, marketing, and financial models for integrated dairy value chain will be developed through intensive discussions and agreements with the potential participating enterprises. The participating households and *dehkan* farmers⁴ will be mobilized and linked to participating enterprises.

5. **Output 2: Integrated dairy value chain hubs developed.** Detailed and participatory dairy value chain business plans, prepared under Output 1, will be financed under Output 2. Dairy value chains will be developed in specific hubs. There will be five stakeholders in a typical dairy value chain hub. Participating dairy processor (PDP) will be the nerve centre of this hub. There will be two types of farmers (household and *Dehkan*) and three types of enterprises (breeding, concentrate, and fodder) that will operate in the hub in closely knit dairy value chain. Each hub will be set up in its economic radius; within 100 km or 2-hour driving distance depending on road infrastructure. Based on milk processing capacity of PDP, milk production centers will be set up. Participating household farmers (PHF) will be organized in cooperatives (registered under the Cooperative Law 2013). Participating *Dehkan* farmers (PDF) will become dairy farmers and some will also diversify into participating fodder enterprises (PFE). Currently, PHF keep their LYCs in the backyard which are dark, unhygienic, and spread diseases. Under the project, modern dairy sheds (MDS) will be built to house HYCs of PHF. MDS will provide clean and efficient economies of scale where all necessary goods (concentrate feed and fodder) and services (veterinary,

⁴ *Dehkan* farms are privately owned by an individual or a group of individuals. They cultivate more than 60% of agricultural land in Tajikistan, averaging about 25 hectares in size and mostly grow field crops such as wheat and cotton. Some also raise livestock on their farms. *Dehkan* farms emerged from the large collective farms as a result of the *Dehkan* Farm Law 2002. Household farmers have small plots, 0.4 to 0.5 ha by the village where they grow fruits and vegetables for home consumption and some surplus for market. They roam their livestock on the pasturelands for free.

milking, marketing) will be provided in bulk. Each PHF can chose to take 2–4 HYC depending on their ability to provide equity (at least 20%).⁵ Similarly, PDF can elect to take 5–10 HYC depending on their ability to provide equity. PDP will acquire HYC through participating breeding enterprises (PBEs).⁶ The project will provide credit line to participating financial institutions who in turn will provide sub-loans to eligible PDPs to acquire HYCs through PBFs and provide to PHFs and PDFs. PDP will recover the cost of HYCs in milk buy-back barter contracts with PHF and PDF. Debt of HYC and MDS will be paid back in 5 years.

6. The LARF will cover expected civil works under each Output: (i) Output 1 (project grant) – refurbishment of existing buildings; and Output 2 (project grant and FI) – combination of activities, which include construction of modern dairy sheds.

7. Specific details of these subprojects, such as site specific and upgrading activities will be prepared after Board approval. Hence the need to prepare this LARF to ensure the subprojects implemented under this framework comply with ADB safeguard objectives, principles and requirements.

8. This LARF provides the framework to follow for Outputs 1 and 2 grant components. Part of the LARF also provides the necessary guidance for the PIG under Output 2 FI component, as the PIG will be responsible to ensure all subprojects are compliant with ADB safeguard requirements and procedures. The potential financial intermediaries (PFI) will confirm that safeguard documents have been approved by the PIG and a separate safeguard document, i.e. Environmental and Social Management System (ESMS) has been prepared for the PFI.

B. Defined Safeguard Responsibilities

9. The following are the main responsibilities for the PIG under Outputs 1 and 2 for the project grant component:

- (i) Screening of subprojects to ensure PIAL and Category A subprojects are excluded;
- (ii) Screening of subprojects to ensure Category A for land acquisition and involuntary resettlement safeguards are excluded;
- (iii) Subprojects categorization according to ADB safeguard requirements (for Category B and Category C subprojects for environment);
- (iv) Prepare safeguard documents according to ADB safeguard requirements, and get ADB clearance before public disclosure by ADB and PIG;
- (v) In the case of unpredicted environmental impacts occurring during subprojects processing or implementation, immediately notify ADB, and prepare a corrective action plan;
- (vi) Update screening checklists, categorization and safeguard documents if there are changes in scope, which must be prior approved by ADB;
- (vii) Monitor subprojects during implementation stage; and
- (viii) Submit bi-annual monitoring reports to ADB.

⁵ PHF, on average, have 3–4 cattle. One LYC is valued \$400–\$700. PHF can sell their LYC to provide equity for HYC.

⁶ Three imported HYC breeds are suitable for the Tajik climate; Holstein-Friesian, Simmental, and Brown Swiss (its milk is famous for cheese making). The landed cost in Tajikistan is \$3,000 per head. But the project will support bulk breeding program, through 'sexed' artificial insemination and embryo transplant to reproduce HYC in Tajikistan to lower their cost to about \$1,200 to \$1,500. Some breeding farms have 100-140 such HYCs for many years and they have adjusted well to local environment and climate.

10. The following are the main responsibilities for the PIG and the PFIs under Output 2 for the FI component.

- (i) PIG
 - Screening of subprojects to ensure PIAL and Category A subprojects are excluded;
 - Screening of subprojects to ensure all the subprojects with land acquisition and involuntary resettlement are excluded;
 - Subprojects categorization according to ADB safeguard requirements (for Category B and Category C projects);
 - Support the sub-borrowers by preparing safeguard documents and conducting public consultations, according to ADB safeguard requirements, and get ADB clearance before public disclosure by ADB and PIG;
 - Ensure that the sub-borrower obtained all regulatory clearances required by national environmental and health legislation before starting the subproject;
 - In the case of unpredicted environmental and social impacts occurring during subprojects processing and implementation, immediately notify ADB, and prepare a corrective action plan;
 - Monitor subprojects during implementation stage;
 - Monitor PFIs on overall ESMS performance and implementation;
 - Submit bi-annual monitoring reports to ADB.

- (ii) PFIs - Proceed according to the approved ESMS Arrangement document, which define ADB safeguards requirements for the selected PFIs:
 - Confirm that proposed subprojects have been approved by the PIG;
 - Confirm that no subproject on ADB PIAL or Category A activities are included;
 - Confirm that no subprojects with land acquisition and involuntary resettlement impacts are included;
 - Confirm that the required environmental safeguard documents are prepared and approved by the PIG;
 - Confirm required regulatory approvals are complete;
 - Ensure covenants related to safeguards are included in the grant agreements between PFIs and sub-borrowers, i.e. EMP or any other safeguard document;
 - Ensure loan agreements include provisions for monitoring and access by PIG and ADB for subprojects review;
 - Submit monitoring reports to PIG on ESMS implementation.

- (iii) Sub-borrowers (in consultation with and guided by the PIG)
 - Provide information to the PIG to allow them to prepare necessary safeguard documents;
 - Ensure that the environmental management plan, including all proposed mitigation measures and monitoring programs, are properly implemented;
 - In case of unpredicted environmental impacts occurring during subproject implementation, immediately inform PIG, prepare and implement a corrective action plan in coordination with PIG;
 - Provide awareness training in environmental management for all employees working on the subproject;
 - Obtain all regulatory clearances required by national environmental and health legislation before starting the subproject;
 - Provide access to PIG and ADB for selected subprojects review.

C. Potential Land Acquisition and Resettlement Impacts

11. Construction works associated with repairs/renovation and/or construction of the existing facilities and premises include interior finishing, roofing, installation of equipment, and construction of the additional indoor areas for cooling equipment, milking parlors and/or modern cowsheds will mainly be carried out within the existing boundaries of the farms and/ or the units under the MOA. However, given there might be unanticipated and unexpected LAR impacts, this LARF has been developed to guide the process of addressing any LAR issues at the implementation stage.

12. All the subprojects and/or civil works proposed under the project will be screened by PIG for LAR impacts and will exclude the sub-projects and/or civil works which have significant land acquisition and involuntary resettlement impacts (IR Category A equivalent) in project grant component and will exclude all the sub-projects and/or civil works with any land acquisition and involuntary resettlement impacts in FI component.

13. If subprojects and/or any civil works selected for financing under the project grant component find that the land acquisition and involuntary resettlement impacts is impossible to avoid and can confirm that the subprojects do not have significant LAR impacts, the MOA will prepare a LARP for each subproject involving land acquisition and involuntary resettlement impacts.

II. OBJECTIVES, POLICY AND LEGAL FRAMEWORK

A. Objectives of the LARF

14. This LARF is a document of the Government of the Republic of Tajikistan and reflects the relevant national legal framework and requirements along with specific ADB's requirements under its Safeguard Policy Statement (SPS) 2009. The document is agreed between the Government of the Republic of Tajikistan and ADB and no changes shall be made to the LARF without prior approval from ADB.

15. The objectives of this LARF document are to guide the Ministry of Agriculture in defining the affected people, conducting socio-economic assessment, identifying types of temporary and permanent impact, its magnitude and assessment, eligibility and compensation as well as assistance to Displaced People (DP).

16. When required, LARPs will be prepared in accordance with this LARF upon assessment and recommendations by the social safeguards specialist in PIG. This LARF will also help MOA to prepare, implement and monitor the LARPs for the subprojects when needed.

B. Country Legal Framework

17. No special law or policy regulates the issues of resettlement and/or land acquisition or expropriation of rights to land and immovable property for state or public needs in the Republic of Tajikistan. The fundamental legislative acts regulating land management relations and the ownership rights to immovable properties in the Republic of Tajikistan are the following:

- Constitution of Republic of Tajikistan (1994, as amended in 2003)⁷
- Land Code (as amended in 2012)⁸
- Part I of the Civil Code (as amended in 2013)⁹
- Housing Code
- Regulation “On approving the procedure for compensating the damages to land users or users of other registered rights related to land, and losses related to withdrawing land from agriculture”¹⁰

18. The Constitution of the Republic of Tajikistan is the fundamental legal document guaranteeing citizen’s rights. According the Constitution, land is exclusively owned by the state, and the state guarantees its effective use in the interests of the people. Individuals have lifelong inheritable use rights for the *land*. The legal basis for state acquisition of private property for public works is outlined in Article 32, which states that the property of an individual is taken away only on the basis of the law, with the consent of the owner and to meet the requirements of the state and society, and with the state paying full compensation.

19. Compensation for land withdrawal and other impacts due to public interest projects are also regulated by other laws, such as the Land Code RT (LC), the Civil Code RT (CC) and various regulations which govern land withdrawal, land allotment and impacts compensation to the citizens. The withdrawal/ allotment of land and resettlement in Tajikistan are based on the following principles:

- (i) Land users have a right to be reimbursed for losses due to withdrawal of right of land use for state and public needs (Article 41,43 LC).
- (ii) Ownership rights of a person, who built a structure without proper legal authorization can be accepted by court if the land plot allocated to this person was for construction purposes, according the procedure set forth by the legislation of the Republic of Tajikistan (Article 246, CC)
- (iii) Termination of property ownership due to the decision of the government body, including acquiring the land plot, on which house, other buildings, structures or planted vegetation are located, is only possible in cases and in accordance with the procedures set forth by the legal acts while providing the owner an equal property and compensating other incurred losses, caused by termination of property rights (Article 263, CC)
- (iv) At termination of the rights to property, it will be assessed on the basis of its market value (Article 265, CC).
- (v) Land user or user of other registered rights associated with land should be noticed in writing about land withdrawal by local land management authority not later than one year before coming land withdrawal procedure (Article 40, LC).
- (vi) If according to International agreements which are recognized by the Republic of Tajikistan other rules are established than those which are specified in the Land Code

⁷ Constitution, November 6, 1994, as amended on 22 June 2003.

⁸ Land Code, as amended by N 498 from December 12, 1997., N 746 from May 14_ 1999, N 15 from May 12 2001, N 23 from February 28, 2004. From 28.07.2006 №199, from 5.01.2008 №357, from 18.06.2008 №405, N 891 from August 1, 2012

⁹ Civil Code, as amended by August 6, 2001, N 41: May 3 2002 №5, March 1 2005, N 85; April 29, 2006 №180, May 12, 2007. №247, July 22, 2013, №977. Last amendment enables legalization of the unauthorized construction (houses, buildings etc.) on the land plot allocated for construction purposes.

¹⁰ Approved by the Decree of Government of Republic of Tajikistan, December 30, 2011, N641.

of the Republic of Tajikistan, so the rules of international agreements will be accepted (Article 105, LC).

20. The LC, 1997 is the core legal document related to land acquisition. It has been updated a few times and most recently in 2016. Article 2 of LC states that there is no “*private ownership of land, “land is an exclusive ownership of the State... [but]... guarantees its effective use in the interests of its citizens. Natural and legal persons have the right to alienate their land use rights” “land use rights can be subject of the civil matters, can be bought and sold, granted, traded, rented, mortgaged*”¹¹ Articles 10-14, the LC outlines land title as being of long-term, short-term, and inherited land use entitlement. Household plots are given to the citizens for life-long inheritable use.

21. Article 18 of LC stipulates that using the land plot without defining its borders by relevant (land management) authorities and issuing documents certifying land use right is barred.

22. Article 24 of LC describes the allocation of land for non-agricultural purposes, and provides that when choosing a suitable location for such land uses, land not suitable for agriculture should be favored. The same principle is stressed by Article 29 LC, which discourages the use of high-yielding agricultural land for non-agricultural use. However, Article 29 also allows for allocation, and sequestering of agricultural land for “*other very important State objects*”.

23. Article 31 of LC provides that land acquisition for non-agricultural public purposes is subject to the award of compensation: “terms of allocating land plots to new land users for non-agricultural needs must envisage compensation of all losses related to confiscation of land plots from former land users, as well as compensation of losses in agricultural production.” Article 19 of LC states the rights of land users, including clauses allowing a land use rights holder the “*waiving voluntarily land plot*” or “*indemnifying for [compensating] for losses*” as mentioned in Article 41 of LC. This article sets out the basis for full reimbursement of losses, including loss of profit, caused by sequestration of land for non-agricultural purposes, restriction of land users' rights.

24. Procedure for calculation of the compensation due for land acquisition is regulated by Articles 43 and the relevant regulatory documents and is defined by the Government of Tajikistan.

C. ADB’s Safeguard Policy Statement requirements

25. The objectives of ADB’s SPS, 2009 are to avoid involuntary resettlement wherever possible; to minimize involuntary resettlement by exploring project and design alternatives; to enhance, or at least restore, the livelihoods of all Affected persons in real terms relative to pre-Project levels; and to improve the standards of living of the displaced poor and other vulnerable groups.

26. As per ADB’s Safeguards Policy Statement (2009), important elements of the resettlement policy for this Project are:

- avoid and minimize land acquisition and resettlement impacts;
- compensate for lost assets at replacement cost; and
- livelihood, and income restoration.

¹¹ Land Code as amended in 2016.

III. COMPARISON TAJIKISTAN LAWS AND ADB RESETTLEMENT POLICY

27. Laws and regulations of the Republic of Tajikistan are in general in line with the requirements of the ADB's Safeguard Policy Statement 2009. Comparison of Tajikistan laws and regulations with the ADB Resettlement Safeguard Policy suggests that there is no major discrepancy or contradictions with ADB SPS requirements. The ADB's principle of avoidance or minimization of resettlement is reflected in the legislation of the Republic of Tajikistan.

28. The key policy difference is about non-titled DP's. In order to remedy this, in the frames of this Project, the Government of the Republic of Tajikistan ensures that all land, businesses and structures will be registered prior to resettlement at no cost to the DP, and then transferred or compensated under the relevant entitlement.

29. Enforcement or practical application of laws and regulations pertinent to LAR should be adequately considered before and during the civil works. For the Project, this will be addressed through awareness raising and regular information dissemination with all the key stakeholders, including those responsible for implementation of LAR at various levels: PIG, district and jamoats, the Project Contractors and Project Management Consultants.

30. The key differences between the laws and regulations of the Republic of Tajikistan and ADB Safeguards Policy Statement are presented below. Any major differences have been resolved in favor of ADB policy, particularly in areas where practices are less subject to independent oversight.

Table 1: Comparison of ADB Resettlement Safeguards with Tajikistan Laws

ADB Safeguards Requirements	Tajikistan Legal provisions	Reconciliation provisions
APs to be compensated and assisted, so that their economic/social future would be generally as favourable as it would have been in the absence of the Project.	The LC provides for compensating for loss of land right, buildings, crops, trees and other assets. Calculation of income losses (i.e. business losses) is not clear. No specific provision with regards to economic/social future of the Aps in the legislation	This Project will provide compensation for loss of land use rights, buildings and crop losses. Business losses will be compensated based on tax returns or if these are unavailable, based on a minimum salary. (See entitlements section for details).
Land compensation is to be provided at replacement rates either in terms of land x land or in cash. Due to circumstances of this Project, compensation needs to be provided in cash.	There is no specific cash for land compensation option, but it is an ultimate responsibility of the Government of Tajikistan to define and endorse the compensation package and procedure.	For this Project, land will be compensated either by provision of replacement plot or in cash. For agricultural land, replacement cost will be computed based on the productive value of the affected plot. For residential or /commercial land (a type of land that does not have intrinsic productive value) replacement cost will be computed based on current lease rate multiplied by 25 years since in Tajikistan there are no functional land markets.

ADB Safeguards Requirements	Tajikistan Legal provisions	Reconciliation provisions
Compensation is to be provided in full at replacement rates	Mandatory compensation at replacement rates through provision of land x land. For cash compensation replacement cost is not used/specified	When land for land compensation is not technically feasible, local administrations will give cash compensation. <u>This practice was adopted for other ADB funded projects and in absentia of other similar mechanisms will be applied to this Project as well. A rehabilitation allowance for land use rights in cash at replacement rate will be provided to affected people.</u>
Lack of formal legal title to the land by some affected groups should not be a bar to compensation or rehabilitation.	Compensation is provided only to registered settlers.	ADB policy shall prevail for this project in case if informal settlers need to be compensated for their losses
Beside compensation at replacement cost for land, ADB safeguards provide also for replacement cost compensation for houses, crops, trees, businesses and employment/income losses.	The Law provides for compensation for all losses. It is specific on this for buildings and crops but does not detail how trees and business compensation is to be carried out.	There is basic conformity on the items where the law provides specific provisions. Compensation for trees and businesses will be carried out in accordance with the entitlement section below
ADB safeguards provide for rehabilitation allowances for, severe impacts, vulnerable APs and relocation.	The law does not specifically provide for the ADB required allowances, however, subject to Government decision, ad-hoc compensation are provided to APs.	These allowances will be provided as per ADB safeguards requirements. The items will be included in the Project costs.
Time bound implementable LARP needs to be prepared before the disbursement of compensation.	There is no provisions requiring resettlement planning and developing LAR plans	For this Project, for any sub-project which may entail LAR, individual LARPs will be developed, as per ADB's SPS
Complaints & grievances are resolved informally through the Grievance Redress Mechanism (GRM), where APs are represented	No specific provision for GRM. However, the Law "On citizen's appeal" enables review and addressing appeals, grievances and complains from citizens to all the state bodies and other entities and institutions.	For this Project, a focused GRM will be set-up at the district level and DPs, NGOs, local authorities will be equally represented to resolve complaints and grievances where possible. The GRM will comply both with the national legislation and ADB SPS 2009 requirements.

31. The Ministry of Agriculture has drafted this LARF for the Project in order to bridge the gaps between the legislation of the Republic of Tajikistan and ADB's Safeguards policy. It will be endorsed by the Government of the Republic of Tajikistan and serve as a guiding tool for planning and implementing LAR in compliance with the ADB SPS.

IV. COMPENSATION ELIGIBILITY AND ENTITLEMENTS

32. All LAR impacts under the Project will be identified and compensated according to the eligibility criteria and entitlement matrix conforming to the legislation of the Republic of Tajikistan as well as ADB's safeguards policy. Summary of the entitlements for this Project is included in the table 2 below.

Table 2. Compensation entitlement matrix

Type of loss	Definition of APs	Compensation Entitlements
Land		
Agricultural land: All losses irrespective of the impact severity	Individual owners/primary land users ¹² with registered titles	Compensation for loss of land use rights in cash equal to 5 years of the gross income of the affected annual crops land at market rate at the time of acquisition or to 1 year of gross income of affected fruit trees land at market rates at the time of acquisition.
	Collective land users	Compensation for loss of land use rights in cash equal to 5 years of the gross income of the affected annual crops land at market rate at the time of acquisition or to 1 year of gross income of affected fruit trees land at market rates at the time of acquisition. Or Provision of alternative land plot of equal value /productivity to the plot lost. If the remaining part of the plot to be taken is too small to use, the whole plot is compensated or exchanged.
	Tenants/ Renters and leaseholders	Compensation of lost income for the duration of the contract/agreement, based on the lease agreement. Rental allowance in accordance with the conditions of the rent agreement, but not less than the cost of the rent for 3 months; Or Continuation of rental agreement on alternative land plot or cash allowance for the lost income equivalent to 1 year of average crop productivity.
	Informal users	One-time allowance amounting 1-year minimum salary as applicable at the time of compensation, for the family, regardless of number of family members or land size. (This is in addition to compensation for trees/crops lost as well as structures).
	Individual owners/primary land users ¹³ with registered titles	Provision of replacement residential land plot in the relocation area with condition and facilities similar to the affected land or rehabilitation cash allowance for loss of land use rights equal to the current land lease rates, at the time of taking, multiplied by 25 years (if land for land is not technically feasible). All costs associated with registration of the land use rights to the replacement land for the affected person shall be covered by the MOA.

¹² The legislation of Tajikistan provides only ownership of Land use rights, therefore, the term “primary land-user” refers to the land owner.

¹³ The legislation of Tajikistan provides only ownership of Land use rights. Therefore, the term “primary land-user” refers to the landowner. All legalization costs will be incurred by the project as part of the project cost.

Residential/commercial land		For the temporary impacts, the land holders/users are entitled to receive cash rent of the affected properties during construction at the agreed rate or documented between the two parties. In addition, the affected property will be rehabilitated to the pre-construction condition.
	Tenants	Allowance equal 6-months lease fees or, if the lease agreement is not available, 6-months minimum salary at the time of compensation. The minimum rental period for which benefit will be provided in six months of rental period if lease agreement is not available.
	Informal users	One-time allowance amounting 1-year minimum salary. (This is in addition to compensation for trees/ crops lost as well as structures).
Houses, buildings and structures		
Loss of residential and non-residential buildings and structures	All owners (including legalizable and Informal Settlers)	Cash compensation for loss of buildings/structures at full replacement cost free of salvage materials and transaction costs. All buildings will be compensated in their entirety and not depreciated for age. For partial impact: compensation for repair
	Tenants	Allowance equal 6-months lease fees or, if the lease agreement is not available, 6-months minimum salary.
Loss of community infrastructure	Community/local government	Reconstruction of the affected structure in consultation with community by the contractor or cash compensation at replacement cost paid to the nominated community leader/local government, as identified by the community.
Loss of Income and Livelihood		
Crops	All APs regardless of their legal status	Crop compensation in cash at market rate equals to 1-year gross income from the affected land.
Trees		Cash compensation for wood trees based on volume of wood at market rate Mature tree: Cash compensation for productive trees based on the net annual yield from the tree(s) for the number of years needed for to reach comparable production level at market rate plus purchase of saplings and starting materials. Sapling: Cash compensation covering the cost of sapling and associated costs for planting (labor, chemicals, fertilizer etc.) at market rate
Temporary or permanent business or employment loss		Business owner/permanent impact: cash compensation of 1-year net income;

		<p>Business owner/temporary impact: cash compensation of net income for the period of the business interruption. The compensation will be assessed at actual daily net income for each type of the businesses impacted.</p> <p>Permanent worker/employees: indemnity for lost wages up to 3 months of average salary in case of permanent impacts</p>
Allowances		
Relocation	All physically displaced households	<p>Provision of sufficient amount to cover transport costs. Transportation allowance (cost of labor and vehicle rent to transport materials of the house/business structures to a new location.</p> <p>Site preparation cost for the alternative land plot (including connection to power grid, water supply system, installation of sewage system etc.)</p> <p>One-time livelihood rehabilitation allowance in form of cash compensation equal to 6 months of official monthly average wage for the transitional period per HH member</p>
Severity	All severely (> 10% loss of productive assets) affected APs	Additional one-time allowance equal to 3-months minimum salary per HH
Le Vulnerability	AHs receiving government assistance for poor, single women headed households below poverty line, elderly households with no means of living, households with disabled head or other HH members	One-time cash allowance equal to 3-months minimum salary per HH and employment priority in project related jobs

1. Eligibility

33. The displaced persons eligible for compensation or rehabilitation provisions shall include line the following:

- (i) All land owning displaced persons losing land or non-land assets, i.e., crops and trees whether covered by legal title or traditional land rights, whether for temporary occupation or permanent acquisition;
- (ii) Tenants and sharecroppers, whether registered or not; for all non-land assets, based on prevailing tenancy arrangements;
- (iii) Displaced persons losing the use of structures and utilities, including titled and non-titled owners, registered, unregistered, tenants and leaseholders plus encroachers and squatters;
- (iv) Displaced persons losing business, income and salaries of workers, or a person or business suffering temporary effects, such as disturbance to land, crops, and business operations both permanently and also temporarily during construction;
- (v) Loss of communal assets and public infrastructure;
- (vi) Vulnerable displaced persons identified through the social impact assessment (SIA); and

- (vii) In the event of relocation, all displaced persons will receive transitional and other support to re-establish livelihoods.

34. Compensation eligibility will be limited by a cut-off date for each subproject on the day of the beginning of the DP Census and DMS. The MOA will announce the cut-off date in the local and national mass media. DPs who settle in the project/sub-project affected area after the cut-off date will not be eligible for any compensation. They, however, will be given sufficient advanced notice, requested to vacate premises and to dismantle affected structures prior to the project implementation. Their dismantled structures will not be confiscated and they will not pay any fine or suffer any sanction.

2. Compensation Entitlements

35. **Agricultural land.** Rehabilitated, based on market rate at the time of acquisition, through compensating for loss of land-use right. The compensation for primary land user is based on the 5-years gross income from affected land at market rate or 1 year of annual gross income of affected fruit trees land. The same allowance will be provided to permanently affected legalizable DPs and collective land users. Collective land users will later on need to internally re-distribute the remaining land and reflect it in the relevant internal documents.

36. Agricultural tenants will receive compensation for lost income for the duration of their contract/lease agreement.

37. Permanently affected informal settlers will receive one-time allowance amounting 1-year minimum salary for the whole family. The allowance will be paid to the family irrespective of the family or affected land size.

38. **Residential/commercial land.** Owners/primary land users and legalizable primary land users of the affected land will be provided a replacement residential land plot in the relocation area, with condition and facilities similar to the affected land or rehabilitation cash allowance for loss of land use rights equal to the current land lease rates, at the time of taking, multiplied by 25 years¹⁴ (if land for land is not technically feasible).

39. MOA shall cover all the costs associated with legalizing the DPs and registration of the land use rights to the replacement land for the affected person.

40. Tenants of the commercial land will receive an allowance equal to 6 months lease fees or 6 months minimum salary, if the written lease agreement is not provided.¹⁵

41. Informal settlers are entitled to one-time allowance amounting 1-year minimum salary.

42. **Houses, buildings and structures** will be compensated in cash at full replacement cost free of salvage materials and transaction costs. Replacement cost will factor in cost of materials, labor, and transport. All buildings will be compensated in their entirety without depreciation for age and will not be depreciated based on the age of structure. Entitled for compensation are

¹⁴ Despite the amendment to the Land Code in 2012 enabling land use rights marketability, mortgage and alienation, official land use rights market still lacks because of underdeveloped enforcement mechanism, i.e. regulatory basis. For this Project, the proxy model of cash for land compensation, adopted for the CAREC Corridor 3 (Dushanbe-Uzbekistan Border) Improvement Project ADB Grant: 42052-TAJ(SF) will be applied.

¹⁵ Minimum monthly salary will be verified through the official website of the State Statistics Agency - www.stat.tj

owners of the affected houses, buildings and structures irrespective of their legal status, including legalizable and non-titled DPs. Partial impact will be compensated to cover the repair cost.

43. Tenants will receive an allowance equal to 6-months lease fees. If the written lease agreement is not available, 6-months minimum salary to mitigate the transition impact on them.

44. **Community infrastructure.** These will be rehabilitated in consultation with the affected community in-kind or cash compensation at replacement cost will be paid to the nominated community leader/local government. Any decision on such structures will be made by the affected communities and documented accordingly.

45. **Crop.** Crop compensation will be paid to all APs regardless, of their legal status, in cash at market rate for 1-year gross income from the affected land. Crop compensation will be paid to all DPs irrespective of their legal status. In case the affected land is used by an agricultural tenant, crop compensation will be paid to the tenant, while the owner will receive rehabilitation for loss of land use rights.

46. **Trees.** Cash compensation for wood trees based on volume of wood at market rate. Fruit trees will be compensated as follows:

- (i) **Mature tree:** Cash compensation for productive trees based on the net annual yield from the tree(s) for the number of years needed for to reach comparable production level at market rate
- (ii) **Sapling:** Cash compensation covering the cost of sapling and associated costs for planting (labor, chemicals, fertilizer etc.) at market rate

47. **Businesses.** If business is lost permanently, it will be compensated in cash equal to a 1-year net income based on tax declaration or, (if unavailable) based on the maximum official non-taxable salary. Temporary business losses will be compensated in cash for the business interruption period on similar basis.

48. **Employment.** Permanently lost employment will be indemnified for lost wages up to 3 months of average salary in case of permanent impacts. Temporary employment loss will be indemnified for lost wages for the period of business interruption.

49. **Temporary impacts:** In case of temporary land acquisition, cash compensation equal to the loss of income opportunity from the affected land for the duration of use. The land/properties shall be restored by the construction contractor(s) to its original status at the end of rental.

50. **Relocation Allowances.** DPs forced to relocate will receive a relocation subsidy sufficient to cover transport costs. DPs experiencing permanent physical displacement will also receive one-time transitional/shifting allowance equal 6 months at average salary per HH member.

51. **Severity allowance.** All severely affected APs, irrespective of their legal status, losing more than 10% of their productive assets will receive one-time allowance equal 3 months minimum salary per household. This will allow to better cope-up with the adverse impact and improve their livelihoods.

52. **Vulnerability.** Vulnerable affected persons, such as households headed by woman, disabled or elderly, living below the poverty line will receive one-time cash allowance equal 3-months minimum salary per household and will have employment priority in Project-related jobs.

Vulnerable persons/households will be identified through the Social Impact Assessment during the LAR planning at the implementation stage.

53. **Unanticipated Impacts.** Any unanticipated consequence of the project will be documented and mitigated based on the spirit of the principles agreed upon in this policy framework.

3. Valuation process

54. MOA requests the relevant districts to establish LAR Commissions at the district level to assess and approve the data on the scope of impact and the DPs. LARC is chaired by District Head/First Deputy District Head in charge of construction/infrastructure and comprises representatives of all the line entities, such as Department on Agriculture, Department on Economic Development, Committee on Land Management (district level), District Architect's office, Environment Protection Department etc. The LARC also verifies the list of DPs and their legal status. MOA together with the LAR Commission (LARC) prepares the initial valuation for residential/commercial/agricultural land and crops applying national market prices.

55. Prepared documents detailing impacts and compensation for affected agricultural land and crops are countersigned and stamped by the LARC members and endorsed by the District Chairman. These documents then serve as the basis for negotiation with the APs.

56. For the houses/buildings/structures, trees and other assets, licensed valuation company or a licensed private valuer will be hired to carry out the valuation. The valuers will be familiarized with the ADB Entitlement matrix, and key principles. Details of the valuation will be reflected in the Valuation Report, which will be submitted to MOA and serve as a basis for negotiation with DPs.

57. The methodology for assessing unit compensation values of different items is as follows:

- (i) Agricultural Land will be valued based on the 5 years' gross income of the affected annual crops land at market rate at the time of acquisition or to 1 year of gross income of affected fruit trees land at market rates at the time of acquisition;
- (ii) Houses/buildings will be valued at replacement value based on construction type, cost of materials, type of construction, labor, transport and other construction costs. No deduction for depreciation and transaction costs will be applied;
- (iii) Annual crops will be valued at gross market rates;
- (iv) Trees will be valued depending on their type (i.e. wood tree, productive/fruit tree):
 - Wood trees will be valued based on wood volume at market rate
 - Fruit/productive trees will be valued based on species and productive age. Saplings will be compensated based on the value of the investment made. Mature trees will be compensated at net market value of annual yield x number of years needed to reach comparable production level.

58. A licensed valuator based on clear and transparent methods acceptable to ADB will assess the unit compensation rates. The assessed compensation rates will then be verified and certified by the MOA.

V. SURVEYS, IMPACTS ASSESSMENT, AND RESETTLEMENT PLANNING

59. This section describes the required procedure for preparation of resettlement planning document that includes the methodologies to be used for socioeconomic surveys, censuses, inventories of losses, and assessments of land losses. It also describes the methods and outlines preparation of resettlement plan for the subprojects entailing resettlement impacts.

A. Socioeconomic Survey, Census, Inventory of Losses

60. The MOA with the assistance of the social safeguard consultants will conduct a census and inventory of all losses (IOL) due to the project works based on detailed engineering design. Details on the scope and methods of carrying out the census, Socioeconomic Survey (SES) and Detail Measurement Survey (DMS) are provided below.

- (i) **Inventory of losses (IOL) and assessment of land losses.** Based on final engineering design, IOL will be conducted in areas identified where there is a potential risk of a household(s) being adversely affected by the proposed project. Specific data that needs to be gathered includes (i) type or nature of landholding that will be affected by the project, (ii) size; (iii) type and extent of possible project impacts; and (iv) name of owner/tenant of the property that will be affected. It will include all types of losses incurred by affected persons such as area of land to be acquired, type and area of affected structures (houses, shops, fences, sheds, toilets, wells, etc.) damaged infrastructure (drainage, electricity, sewer lines, cable, etc. if any) heating, number of affected trees by type, area of crop production, loss of income and/or livelihood, loss of employment, permanent or temporary impacts, etc.
- (ii) **Detail Measurement Survey and Census.** PIG and resettlement specialists of Supervision Consultants will undertake surveys for each identified subproject, based on detailed/final technical design. Detailed measurement survey (DMS) includes the following: (i) a full inventory/measurement of all land/other assets losses including buildings, crops, trees, and income; (ii) describing the type of (construction) materials used, i.e. concrete, brick, mud/mud-brick etc.; (iii) an assessment of unit replacement values for each affected item/loss will be conducted to ascertain the value of losses and identify rehabilitation measures to mitigate impacts. A valuation company/individual licensed valuator will be contracted to provide valuation report and define the replacement value per item per AP. Valuation report will serve as a basis for defining compensation package along with other entitlements.
- (iii) The census of affected persons will be conducted to document the status of potentially affected people within the subproject impact area and identify vulnerable affected persons. **It shall cover 100% of affected households/entities, and should identify and record all affected persons.** The census will include a socio-economic profile of affected households and entities, especially their assets and main sources of livelihood. These resettlement investigations will be the basis to prepare a detailed inventory of losses for each affected person in terms of type and extent of impact with respect to land, structure, livelihoods and access to common property resources, if any.

- (iii) **Socio-economic sample survey.** The socio-economic sample survey to be conducted for the final LARPs prior to contract award will supplement additional information gathered during the project impact assessment. The survey will provide general socio-economic profile for all the affected households with the focus on severely affected households and affected households/entities. The survey will also collect sex-disaggregated data to address gender issues in resettlement and analysis of social structures and income resources of the population.
- (iv) **Database.** All information concerning resettlement issues related to land acquisition, socioeconomic information of the affected land, structures, inventory of losses by individual affected persons, compensation and entitlements, payments and relocation will be entered onto a computer database. This database will form the basis of information for preparation and implementation of LARP, monitoring and reporting purposes and facilitate efficient management and monitoring of compensation distribution. The collected data and the analysis shall quantify the degree of losses and implications for the affected households in terms of living conditions, livelihoods, income loss, intangible loss and other impoverishment risks.
- (v) **Analysis of social impacts.** The above-mentioned data shall be analyzed to review the social impact of each subproject on the affected persons and communities, in particular the poor, women, and other vulnerable and disadvantaged groups. The analysis shall provide the socio-economic profile of the affected community, disaggregated by gender, income, education and other socio-economic parameters. The impacts, including the direct resettlement impacts to the land, businesses and other assets of people/community shall be assessed. The concerns and needs of women and other disadvantaged groups, and their priorities shall be identified and relevant mitigation and rehabilitation measures developed.

B. Compensation, Income Restoration and Relocation

61. Income restoration assistance to the affected persons includes various strategies. Short term income restoration strategies are for immediate assistance during relocation and include the following:

- (i) Compensation for land, structures, and all other lost assets is paid in full before construction activity begins;
- (ii) DPs losing entire structures are entitled to shifting and reconstruction allowance (cash) for moving to alternative premise for re-establishing house/business;
- (iii) Shifting allowance for households based on actual cost of moving/unloading;
- (iv) 60-days advanced notice to harvest standing seasonal crops, if harvest is not possible, compensation for share of standing crops at market.
- (v) As a gap-filling measure, special permit will be given for physically displaced APs to construct new house/buildings on the replacement land, while the procedure of earmarking the land plot is done and registration of the land use rights is on-going. Having done that, the MOA will ensure the registration of land use rights is reasonably speed-up and DPs do not face difficulties getting their land use certificates. This issue will be one of the focus areas for the resettlement monitoring task.

VI. PUBLIC CONSULTATION, PARTICIPATION AND DISCLOSURE

62. According to ADB SPS (2009), the DPs must be meaningfully consulted and provided with opportunities to participate in the planning and implementation of LAR. Under the same principles, the DPs have to be informed in an appropriate and timely manner of the planning process outcomes, as well as the schedules and procedures for the preparation and implementation of the LARP, including entitlements, payment procedure and relocation.

63. The laws and policies of Tajikistan which apply to resettlement related to ADB financed projects in Tajikistan are:

- Constitution of Tajikistan
- Civil Code
- Land Code

64. Apart from the formal notification requirements set in the Land Code, there is no requirement for the government to discuss project designs or possible LAR options with the DPs. Nevertheless, the local government authorities (hukumats and jamoats) disseminate to the local population all information issued in the form of a decree and other decisions related to the project. In addition, the PIURR takes the lead in the coordination of information disclosure at the local levels and conducts consultations with the local population as per the ADB SPS 2009 requirements. National and local authorities, including district and sub-district levels are informed about the Project. Their assistance will be solicited at the implementation stage when drafting the LARP for conducting inventory of losses, Census and DMS. When and if LARP will be required, DPs will be informed about the results of the Census and DMS. Their preferences on compensation and other types of assistance will be thoroughly considered before finalizing the LARP. The Project will involve DPs in planning, implementing and monitoring of LARP and described in the LARPs, including the details and minutes of community consultations held in the affected areas and with the DPs.

65. This LARF in Tajik will be disclosed to the public on the MOA website at www.moa.tj. It will be also disclosed to the affected communities in the three district administration offices. LARF in English will also be disclosed on ADB website after being endorsed by the Government of the Republic of Tajikistan. Consultation with the affected communities will be held throughout the Project cycle.

66. During the LARP preparation SES with the inclusion of gender disaggregated data and consultations with communities, in addition to the information about the Project, LAR processes, bidding process and expected time for the beginning of the works, the participants received the Project Brochure, Project-specific entitlements, the Government Decree on the GRM and information about the cut-off date will be provided to the APs.

67. During the LARP implementation, the following information disclosures are planned:

- uploading of the draft LARP in English on the ADB website
- distribution of copies of the LARP in the Russian language in the local authorities' offices
- posting of the approved draft LARP in the Russian language on the PIURR website
- in case of changes in project design, which may result in changes of resettlement impacts, measurement of additional impact, valuation and updating of the LARP will

be undertaken. Consultations with DPs and information disclosure will be ensured as per the established LAR consultations procedure. The updated LARP will be disclosed to the displaced persons, and submitted to the PIG and ADB for approval prior to the commencement of construction in the section(s) where the design has been changed. The updated and approved LARP will be uploaded on the ADB and PIG website.

- corrective action plans will also apply to design variations effected or any omission detected once the construction has commenced.

VII. GRIEVANCE REDRESS MECHANISM

68. To enable DPs to voice out any concern or disagreement with the compensation procedure and/or negative impact of the civil works, a Grievance Redress Mechanism (GRM) will be established and maintained for the Project according to ADB requirements.

69. DPs will be made fully aware of their rights and responsibilities, the procedures of submitting written or verbal complaints and grievances. Based on the experience and lessons learnt from other ADB projects in the country, DPs will also be informed about the GRM at the time of compensation payment. Affected communities and DPs will be continuously consulted with through establishing effective communication and coordination between the affected communities, MOA/PIG, and local authorities to prevent grievances and/or promptly addressing minor cases.

70. The project GRM will be in effect from the commencement of project implementation activities until the completion of the civil works and will be addressing both resettlement and environmental complaints. Copies of the GRM process and the complaint forms in Tajik will be available at the Jamoat offices, MOA and PIG office and the District LAR Committees to ensure transparency and equal access for all the citizens. Grievance Redress Mechanism will be detailed in the LARPs accordingly.

A. Grievance Resolution Process

71. Grievances can be lodged with the Focal Person at the jamoat's GRC. The jamoat's FP, in consultations with the PIG, will screen the grievance for eligibility. If eligible, the jamoat's FP will organize a meeting of the Grievance Redress Committee (GRC). The PIURR representatives will be informed and invited to the meeting.

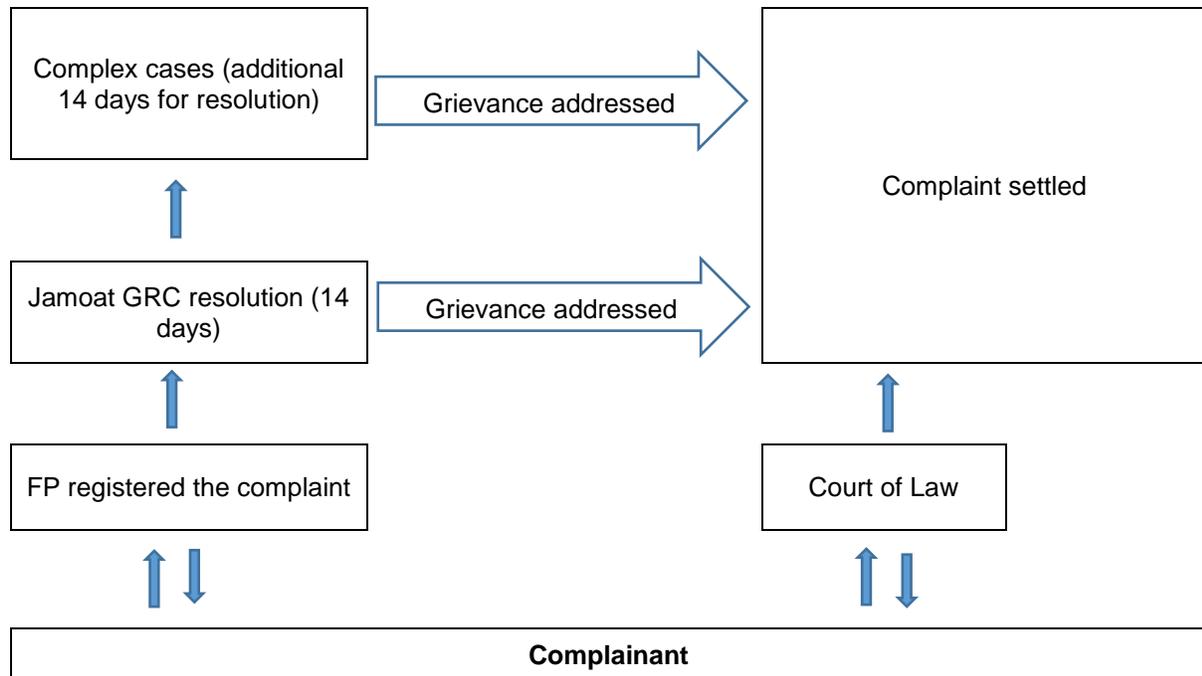
72. The complaint registered with the GRM should be reviewed, addressed and a decision made on its relevancy to the Project within 14 calendar days of lodgment. If the case is complex or requires more detailed investigation (e.g. inspection by technical experts or legal opinion from the state or certified private entities) the complaint review period may be extended to 30 calendar days or more, if necessary. In such cases, written notification should be sent to the complainant explaining the reasons for extension, describing the process and indicating the expected dates for the delivery of the results of the revision.

73. All supporting documents such as, photographs, related certificates and legal and technical expert opinions, if required, should be prepared, reviewed and assessed. Once the complaint is resolved, the GRC will organize a complaint closure meeting, where the complainant confirms the closure of the complaint.

74. All efforts will be made to settle issues at the Project level. All complaints and resolutions will be properly documented by the PIG and made available for review, monitoring and evaluation purposes. This report will be regularly included in monthly project progress reports.

75. The grievance redress process is shown in Figure 5-1 below.

Figure 5-1: Grievance Redress Process



76. GRM proceedings may need one or more meetings for each complaint and may require field investigations by specific technical or valuation experts. Grievance cases shared by more than one complainant may be held together as a single case.

77. For appeals lodged directly to the PIG will review the case together with the respective GRC at the jamoat level and attempt to find a resolution together with the aggrieved person.

78. At each level of appeal, the GRC will be assisted, as required, by the professional capacity needed to solve specific cases. This may include among others:

- Jamoat and/or hukumat representatives
- Rayon land committee
- Representatives of the State Agency for Architecture
- The State Committee for Land Management and Geodesy (SCLMG)
- State Agency for Environment and Forestry
- State Unitary Enterprise for Housing and Communal Services
- Technical expertise from professional engineers
- Other specialized organizations as necessary

B. Grievance Mechanism during the Construction Period

79. All people living in the project area may experience some adverse impact during the construction period such as damages, caused by direct physical impact of the contractor's equipment, contractor's or employer's design, or by other activities related to the rehabilitation/construction activities. Under the terms of the civil works contract, the Contractor has the obligation to provide third party insurance in the joint name of MOA, as the Employer, and the Contractor. According to the terms of the civil works contract, in case of damages, an affected person (the Claimant) may follow the claim procedure:

- (i) Address his/her claim(s) for damages to the Employer;
- (ii) A district level Grievance Committee will be established. It includes 3-4 members of the affected community, a representative of the Jamoat, to be chaired by the Deputy of the district Chairman in charge for construction sector. Members will include the representative of MOA and the Contractor to speed-up the grievance resolution process. Grievances must be heard and resolved within 14 days of submission of the complaint;
- (iii) If still unsettled within the 14 days, a grievance can then be lodged to MOA at central level. Again, the elected representatives of the affected party will have the opportunity to mediate;
- (iv) If no solution is reached within 14 days the affected parties can further submit their case to the appropriate court of law.

VIII. INSTITUTIONAL FRAMEWORK

80. LAR compensation and rehabilitation measures needs ongoing and effective interagency cooperation. This includes involvement of various level government bodies and consultants. The following are the key responsible agencies in charge for land acquisition and resettlement, compensation and rehabilitation measures:

A. Executing Agency and its subordinated structures/units

81. **Executing Agency (EA):** The Executing Agency (EA) for the Project will be the MOA. The MOA has overall responsibility for the project and therefore is ultimately responsible for ensuring the implementation of the project according to the plan, and for ensuring compliance with loan covenants. The MOA will guide and coordinate closely with other government agencies and the ADB for the timely resolution of any issue and completion of the project within the target time period, expediting the procurement process, and organizing and chairing the Project Steering Committee (PSC) meetings.

B. District/sub-district (jamoat) level authorities

82. District and sub-district level authorities will be responsible for day-to-day LAR related activities, including the data collection stage, verification of DPs and affected asset/screening etc. and closely collaborate with the MOA. This will include but not limit to:

- (i) Participating in the initial screening and impact assessment;
- (ii) Identifying asset owners, including the primary and secondary (tenants) land users. To contact the asset owners residing out of the country (e.g. labour migrants), verify unidentified owners;

- (iii) Providing data and verify the cropping pattern, data on agricultural yield from affected land plots;
- (iv) Inviting affected communities and DPs for public consultations;
- (v) Ensuring cut-off dates are widely announced among the affected communities. This is done in addition to and in cases where local mass-media is not available/accessible to the DPs;
- (vi) Working together with the LAR consultant and the MOA/PIG in preparing LARPs for the sub-projects. Chairman of the district and heads of all relevant departments, such as land management, architects' office, agriculture department, Sanitary and Epidemiology, Environment protection counter-sign the consolidated data on DPs and compensation entitlements;
- (vii) Being an integral part of the GRM and playing a facilitator/mediator role between the MOA, the Contractor and the affected communities in case of disputes to ensure smooth and speedy resolution of minor disputable cases;
- (viii) Ensuring all the DPs, entitled for a replacement land plot, timely obtain their land use certificates. In the event when registration takes time, allowing DPs to commence construction of new house/buildings on the earmarked replacement land plot.

3. State Committee on Land Administration and Geodesy of the Republic of Tajikistan (SCLAG)

83. District level SCLAG through the territorial offices of the State Unitary Enterprise for Registration of Immovable Property¹⁶ (SUERIP) is responsible for collaborating with the EAs in:

- (i) identifying the affected land users whether primary, secondary (tenants) or informal settlers;
- (ii) verifying the actual land plot size against the documented size to enable proper compensation;
- (iii) participating in DMS;
- (iv) assisting in/verifying the estimation of compensation package;
- (v) preparing land management/allocation files for each AP and submitting for further processing to the central Land management body

84. State Committee on Land Administration and Geodesy – the central level land authority is responsible for review and endorsement of the land management files and eventual issuance of Land Use Certificate for the DPs. In case of this Project, Land Use certificates will be issued at the regional level by the SCLAG at district or oblast level.

C. Independent Valuation Firms/individuals

85. Valuation of the affected assets will be carried out by the licensed valuers either individual or company, hired during the LARP preparation by the MOA/PIG. The valuation report is submitted to the PIG and serves as the basis for estimating compensation package.

¹⁶ Officially created in January 2015, SUERIP is the new entity in Tajikistan charged with unifying and modernizing the immovable property registration system in the country and combining the functions of the former Bureau of Technical Inventory (BTI)s and the former Markaz Zamin (Land Office)

IX. CAPACITY BUILDING FOR LARP IMPLEMENTATION

86. To ensure satisfactory and smooth implementation of potential LAR issues under the Project and to further develop capacity of the EA to handleLARPs, MOA/PIG will need to recruit a social safeguard consultant to manage all relevant issues. 1-day awareness raising sessions on ADB social safeguards, including land acquisition and involuntary resettlement, compensation entitlements, public consultation, Grievance Redress Mechanism, internal and external monitoring of resettlement plans will be carried out for Central and local level stakeholders, involved in LARP preparation and implementation, when the Project starts.

X. RESETTLEMENT BUDGET AND FINANCING

87. All the costs associated with LAR administration, compensation of DPs and LARP implementation will be contributed by the Government of the Republic of Tajikistan as counterpart funding and will be part of the Project cost.

88. Ministry of Finance of the Republic of Tajikistan will allocate funding based on the submitted request from MOA with details of the DPs and compensation amounts based on the LARPs. The funds will be transferred to the special account in every concerned district and DPs will pick-up their compensation amount in person when verified against their passports/IDs. MOA/PIG together with the internal monitor/resettlement Consultant will observe compensation payment and carry out sample survey of DPs who received compensation. The results of the monitoring will be reflected in the periodic Social Safeguards Monitoring Reports to the ADB.

89. MOA will ensure compensation funds are made timely available and DPs are compensated prior to acquiring their land and private assets. It will estimate detailed LARP budget, which will include: (i) detailed costs of land acquisition, structures, trees, relocation, and livelihood and income restoration and improvement; (ii) administrative costs; (iii) LARP implementation cost; iv) capacity building of EA personnel; v) monitoring costs.

XI. IMPLEMENTATION SCHEDULE

90. MOA will make sure resettlement planning is carried out before the award of the civil works contract. Any LARPs, if required, shall be implemented before the commencement of the civil works. The implementation schedule for LAR tasks will depend on the design of the sub-projects.

XII. MONITORING, REPORTING AND EVALUATION

91. MOA/PIG will develop and implement detailed monitoring and evaluation plan also reflecting the resettlement and land acquisition issues. PIG will maintain the database with the baseline data against which the LAR progress will be tracked and monitored. Monitoring of the compensation process will allow understanding if DPs received fully their compensation.

92. To enable efficient, effective and fair monitoring, the following indicators are proposed to monitor LARP implementation:

- (i) Amount of land lost versus amount of replacement land (of similar or better quality);
- (ii) Number of DPs who received their land use certificate (for replacement land);
- (iii) Number of jobs provided (temporary and replacement), including number of DPs employed for these jobs;

93. Data for these indicators will be collected through random sample surveys among the DPs as well as through the consultation meetings or FGDs.

94. The MOAI/PIG shall prepare and submit monitoring reports to ADB on LARP implementation semi-annually and a compliance report upon completion of the LARP implementation.

ANNEX 1: OUTLINE OF LAND ACQUISITION AND RESETTLEMENT PLAN

1. The comprehensiveness of a resettlement plan would be according to the potential involuntary resettlement impacts/risks and size of the project. The resettlement plan must adequately address all involuntary resettlement issues pertaining to the project, describe specific mitigation measures that will be taken to address the issues, and outline institutional requirement and resources required to implementation of the RP. The following outline of RP is suggested for the present project.

A. Executive Summary

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

A. Project Description

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

Scope of Land Acquisition and Resettlement

4. This section:

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

B. Socioeconomic Information and Profile

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

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

C. Information Disclosure, Consultation, and Participation

6. This section:

- (i) Identifies project stakeholders, especially primary stakeholders;
- (ii) Describes the consultation and participation mechanisms to be used during the different stages of the project cycle;
- (iii) Describes the activities undertaken to disseminate project and resettlement information during project design and preparation for engaging stakeholders;
- (iv) Summarises the results of consultations with affected persons (including host communities), and discusses how concerns raised and recommendations made were addressed in the resettlement plan;
- (v) Confirms disclosure of the draft resettlement plan to affected persons and includes arrangements to disclose any subsequent plans; and
- (vi) Describes the planned information disclosure measures (including the type of information to be disseminated and the method of dissemination) and the process for consultation with affected persons during project implementation.

D. Grievance Redress Mechanisms

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

E. Legal Framework

8. This section:

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

F. Entitlements, Assistance and Benefits

9. This section:

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

G. Relocation of Housing and Settlements

10. This section:

- (i) Describes options for relocating housing and other structures, including replacement housing, replacement cash compensation, and/or self-selection (ensure that gender concerns and support to vulnerable groups are identified);
- (ii) Describes alternative relocation sites considered; community consultations conducted; and justification for selected sites, including details about location, environmental assessment of sites, and development needs;
- (iii) Provides timetables for site preparation and transfer;
- (iv) Describes the legal arrangements to regularize tenure and transfer titles to resettled persons;
- (v) Outlines measures to assist displaced persons with their transfer and establishment at new sites;
- (vi) Describes plans to provide civic infrastructure; and
- (vii) Explains how integration with host populations will be carried out.

H. Income Restoration and Rehabilitation

11. This section:

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

I. Resettlement Budget and Financing Plan

12. This section:

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

J. Institutional Arrangements

13. This section:

- (i) Describes institutional arrangement responsibilities and mechanisms for carrying out the measures of the resettlement plan;

- (ii) Includes institutional capacity building program, including technical assistance, if required;
- (iii) Describes role of NGOs, if involved, and organizations of affected persons in resettlement planning and management; and
- (iv) Describes how women's groups will be involved in resettlement planning and management.

K. Implementation Schedule

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

L. Monitoring and Reporting

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

ANNEX 2

SOCIAL SAFEGUARDS SCREENING CHECKLISTS

A. Involuntary Resettlement Impact Checklist

Screening Questions	Yes	No	Remarks
1. Will there be land acquisition using eminent domain law?			If yes, exclude from financing.
2. Will there be permanent or temporary loss of shelter and residential land due to land acquisition?			If yes, exclude from financing.
3. Will there be permanent or temporary loss of agricultural and other productive assets due to land acquisition?			If yes, exclude from financing.
4. Will there be losses of crops, trees, and fixed assets due to land acquisition?			If yes, exclude from financing.
5. Will there be permanent or temporary loss of businesses or enterprises due to land acquisition?			If yes, exclude from financing.
6. Will there be permanent or temporary loss of income sources and means of livelihoods due to land acquisition?			If yes, exclude from financing.
7. If land or private property is purchased through negotiated settlement or willing buyer-willing seller, will it result in the permanent or temporary removal or displacement of renters, or leaseholders?			If yes, exclude from financing.
8. If land or private property is purchased through negotiated settlement or willing buyer-willing seller, will it result in the permanent or temporary removal or displacement of informal land-users (people without legal rights on the land) or squatters?			If yes, exclude from financing.
9. Will the subproject involve any permanent or temporary restrictions in land use or access to legally designated parks or protected areas and cause people or any community to lose access to natural resources, <u>traditional habitats</u> , communal land, or communal facilities?			If yes, exclude from financing.
10. Will the subproject use government land or any public land or property, which will require the permanent or temporary removal of informal occupants or users (residential or economic)?			If yes, exclude from financing.

**INVOLUNTARY RESETTLEMENT
IMPACT Category**

- Category A** Significant Impact¹ exclude from financing
- Category B** Limited Impact exclude from financing
- Category C** No involuntary resettlement impacts (only these subprojects will be allowed for financing)

Prepared by:
Name and Signature
Designation:
Date:
Approved by:
Name and Signature
Designation:
Date:

¹ Involuntary resettlement means physical or economic displacement as a result of land acquisition or involuntary restrictions on land use or on access to legally designated parks and protected areas. Involuntary resettlement is considered significant if 200 or more persons will experience major impacts, which are defined as (i) being physically displaced from housing, or (ii) losing 10% or more of their productive assets (income generating).

B. Indigenous Peoples Impact Screening Checklist

Screening Questions	Yes	No	Remarks
A. Indigenous Peoples Identification			
1. Will the subproject be in an area (land or territory) occupied, owned, or used by socio-cultural groups who may be considered as "tribes" (hill tribes, schedules tribes, tribal peoples), "minorities" (ethnic or national minorities), or "indigenous communities"?			If yes, exclude from financing.
2. Do such groups self-identify as being part of a distinct social and cultural group?			
3. Do such groups maintain collective attachments to distinct habitats or ancestral territories and/or to the natural resources in these habitats and territories?			
4. Do such groups maintain cultural, economic, social, and political institutions distinct from the dominant society and culture and/or speak a distinct language or dialect??			
B. Identification of Potential Impacts			
5. Will the subproject directly or indirectly affect vulnerable Indigenous Peoples' traditional socio-cultural and belief practices? (e.g. child-rearing, health, education, arts)			If yes exclude from financing
6. Will the subproject negatively affect the livelihood systems of vulnerable Indigenous Peoples community/ies? (e.g., food production system, natural resource management, crafts and trade, employment status)			If yes, exclude from financing.
7. Will the subproject involve commercial development of the cultural resources and knowledge of Indigenous Peoples that will affect cultural integrity, identity and community of Indigenous Peoples?			If yes, exclude from financing.
8. Will the subproject require acquisition of lands that are traditionally owned or customarily used, occupied or claimed by indigenous peoples and cause physical or economic displacement from traditional or customary lands?			If yes, exclude from financing.
9. Will the subproject involve commercial development of natural resources (such as minerals, hydrocarbons, forests, water, hunting or fishing grounds) within customary lands under use that would impact the livelihoods or the cultural, ceremonial, spiritual uses that define the identity and community of Indigenous Peoples?			If yes, exclude from financing.
10. Will the subproject be located in a cultural heritage site?			If yes, exclude from financing.

a. Anticipated subproject impacts on Indigenous Peoples

Subproject Component/ Subproject/ Output	Anticipated Positive Effect	Anticipated Negative Effect
1.		
2.		
3.		
4.		
5.		

**INDIGENOUS PEOPLES IMPACT
CATEGORY**

- Category A** Significant Impact ²
- Category B** Limited Impact
- Category C** No impact

Prepared by:
Name and Signature
Designation:
Date:
Approved by:
Name and Signature
Designation:
Date:

² The significance of impacts on Indigenous Peoples is determined by assessing (i) the magnitude of impact in terms of (a) customary rights of use and access to land and natural resources; (b) socioeconomic status; (c) cultural and communal integrity; (d) health, education, livelihood, and social security status; and (e) the recognition of indigenous knowledge; and (ii) the level of vulnerability of the affected Indigenous Peoples community.