

Resettlement Framework

Project Number: 43405
November 2010

Proposed Multitranche Financing Facility Georgia: Urban Services Improvement Investment Program

United Water Supply Company of Georgia (UWSCG)
Government of Georgia

ABBREVIATIONS

ADB	Asian Development Bank
AF	Affected Family
AP	Affected Person
CPFPG	Compensation Policy Framework and Procedural Guidelines
EA	Executing Agency
EIA	Environmental Impact Assessment
ESSU	Environmental and Social Safeguards Unit
FY	Fiscal Year
GEC	Grievance Examination Commission
IMA	Independent Monitoring Agency
IPSA	Initial Poverty and Social Assessment
LAR	Land Acquisition and Resettlement
RF	Resettlement Framework
RP	Resettlement Plan
MFF	Multi-tranche Financial Facility
MLARO	Municipal Land Acquisition and Resettlement Office
MoESD	Ministry of Economic and Sustainable Development
MoF	Ministry of Finance
MoRDI	Ministry of Regional Development and Infrastructure
NAPR	National Agency of Public Registry
NGO	Non-Governmental Organization
SPS	Safeguards Policy Statement 2009
UWSCG	United Water Supply Company of Georgia

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DEFINITIONS OF LAR TERMS

Beneficiary Community - All persons and households, situated within the government-owned or acquired property, who voluntarily seek to avail and be part of the Project and represented by a community association that is duly recognized by the community residents, accredited by the local government, and legally registered with the appropriate institutions.

Compensation - Payment in cash or in kind of the replacement cost of the acquired assets.

Entitlement - Range of measures comprising compensation, income restoration, transfer assistance, income substitution, and relocation which are due to affected people, depending on the nature of their losses, to restore their economic and social base.

Host population - Community residing near the area where the Project beneficiaries propose to voluntarily resettle as part of the Project.

Improvements - Structures constructed (dwelling unit, fence, waiting sheds, animal pens, utilities, community facilities, stores, warehouses, etc.) and crops/plants planted by the person, household, institution, or organization.

Land Acquisition - The process whereby a person is compelled by a government agency to alienate all or part of the land a person owns or possesses to the ownership and possession of the government agency for public purpose in return for a consideration.

Affected Person/People - Any person affected by Project-related changes in use of land, water, natural resources, or income losses.

Affected Family/Household - All members of a household, residing under one roof and operating as a single economic unit, who are adversely affected by the Project or any of its components. It may consist of a single nuclear family or an extended family group.

Rehabilitation - Compensatory measures provided under the Policy Framework on involuntary resettlement other than payment of the replacement cost of acquired assets.

Relocation - the physical relocation of a AP/AF from her/his pre-Project place of residence.

Replacement Cost - The value determined to be fair compensation for land based on its productive potential, the replacement cost of houses and structures (current fair market price of building materials and labor without depreciation or deductions for salvaged building material), and the market value of residential land, crops, trees, and other commodities.

Resettlement - All measures taken to mitigate any and all adverse impacts of the Project on AP's property and/or livelihood, including compensation, relocation (where relevant), and rehabilitation of the damaged/removed infrastructure and installations

A. Introduction

1. This Resettlement Framework (RF) for the Georgia Urban Services Improvement Investment Program (the Investment Program) has been prepared by the United Water Supply Company of Georgia (UWSCG), the Investment Program Implementing Agency (IA), and is endorsed by the Ministry of Regional Development and Infrastructure (MoRDI), the Investment Program Executing Agency (EA). The Investment Program will be financed by ADB through a Multitranche Financial Facility (MFF) subdivided into four tranches, each involving various projects entailing the construction and or rehabilitation of water supply and sanitation (WSS) facilities and systems.

2. The objective of this document is to provide guidance in the preparation and implementation of land acquisition and resettlement (LAR) tasks for the projects under each tranche and to establish the necessary covenants to ensure this complies with the ADB's Safeguards Policy Statement (2009) and procedures for MFFs and relevant Georgian legislation. This RF sets out the procedures for the preparation of LAR tasks for projects under the Investment Program and sets the objectives, principles, compensation eligibility and entitlement criteria, legal and institutional frameworks, participation and consultation procedures and grievance redress mechanisms to be employed to compensate, resettle and rehabilitate the living standards of Affected Families (AF) and Affected Persons/People (AP.) This RF also sets out the steps for preparing Resettlement Plans (RPs) in case they are needed.

3. The Investment Program was developed as the Government's response to the lack of adequate and/or safe water supply, sewerage and sanitation in urban areas of Georgia. This is intended to optimize social and economic development in select urban areas (provincial capitals and secondary towns) through improved urban water and sanitation (WSS) services, and will be financed by the ADB through its Multi-tranche Financing Facility (MFF). With a total cost of \$625 million, this Investment Program will be implemented in six selected towns (**Figure 1**) in three tranches of funding over a period of 8 years beginning in 2011.

4. The Investment Program will improve infrastructure through the development, design and implementation of a series of subprojects, each providing improvements in a particular sector (water supply and/or sewerage) in one town. Subprojects will rehabilitate existing infrastructure and/or create new and expanded infrastructure to meet the present and future demand. Water supply improvements will include source augmentation and headworks, pumping systems, treatment facilities, transmission and distribution network; and, sewerage improvement works will include sewer network, trunk sewers and sewage treatment facilities.

5. The Investment Program will improve the health of residents in the urban centers of Kutaisi, Poti, Marneuli, Zugdidi, Anaklia and Mestia. The outcome of the Investment Program is improved WSS services in these urban centers.

- (i) The first tranche will improve water supply intake and treatment facilities in Zugdidi, Anaklia, Mestia and Marneuli. It will also improve the institutional effectiveness of the UWSCG through appointment of the Management Contractor. Design engineering and construction supervision consultants for all six Investment Program towns will be appointed in the first tranche. Detailed engineering design for all six Investment Program towns is planned for completion by end 2011.

- (ii) The second tranche will (a) improve WSS systems in the first zone of Marneuli, Kutaisi, Poti, and Zugdidi; (b) complete WSS systems in Anaklia and Mestia; and (c) complete construction of the sewage treatment plants (STP) in Mestia.
- (iii) The third tranche will (a) improve WSS systems in the second zone of Kutaisi; (b) complete WSS systems in Poti and Zugdidi; and (c) complete construction of STPs in Poti and Zugdidi.
- (iv) The fourth tranche will complete WSS systems and the STP in Kutaisi.

6. Tranche 1 of this Investment Program, with a total cost of \$ 105 million, includes following subprojects:

- (i) Improvement of water supply system in Marneuli (rehabilitation of existing bore holes, new disinfection facility, laying of transmission line, rehabilitation/ construction of reservoirs, and pumping systems)
- (ii) Improvement of water supply system in Mestia (new source development, laying of transmission mains, construction of water treatment plant and construction of reservoirs)
- (iii) Improvement of water supply system in Zugdidi and Anaklia (new source development, laying of transmission mains, construction of water treatment plant and rehabilitation of existing reservoirs)

7. Involuntary resettlement will be of temporary nature in tranche 1 project and limited to construction of water transmission mains in Mestia. Water treatment plants will be located on Government land. For subsequent tranches, water supply and sewerage networks will be constructed along the right of way. Sewage treatment plants (STPs) will be constructed on Government land, especially where existing dilapidated STPs are located.

8. Before Investment Program appraisal this RF will be translated into Georgian and distributed to all interested stakeholders. The English version will be posted on the ADB website.

B. LAR Related Investment Program Processing Requirements

9. Based on ADB SPS 2009 and practice, appraisal of the Investment Program and each tranche of the MFF, and approval of the implementation of tranche subprojects will require the preparation of the following:

- (i) A RF for the whole financial facility and applicable to all subprojects. The RF will be reviewed, if necessary updated, and submitted for ADB approval at least annually and always at the start of the preparation of each tranche.
- (ii) An Initial Poverty and Social Assessment (IPSA) indicating, for each tranche, whether LAR impacts are likely to occur, type of impacts, likely magnitude, and whether there may be Indigenous Peoples (IP) affected.
- (iii) If LAR occurs, a RP for each project under a tranche based on detailed design and commensurate to the severity of impacts¹. The RP will include detailed compensation and administration budgets and implementation schedules linking LAR tasks to the initiation of civil works.





¹ Based on SPS 2009 and ADB Operation Manual (OM) F2/OP and BO (2010) a project is classified as Category "A" and a full RP is needed if > 200 people suffer significant impacts (relocation or loss of >10% of productive assets). A project will instead be classified as Category "B" when less than 200 people suffer significant impacts. Category "C" projects have no LAR impacts. No subproject will affect indigenous people.

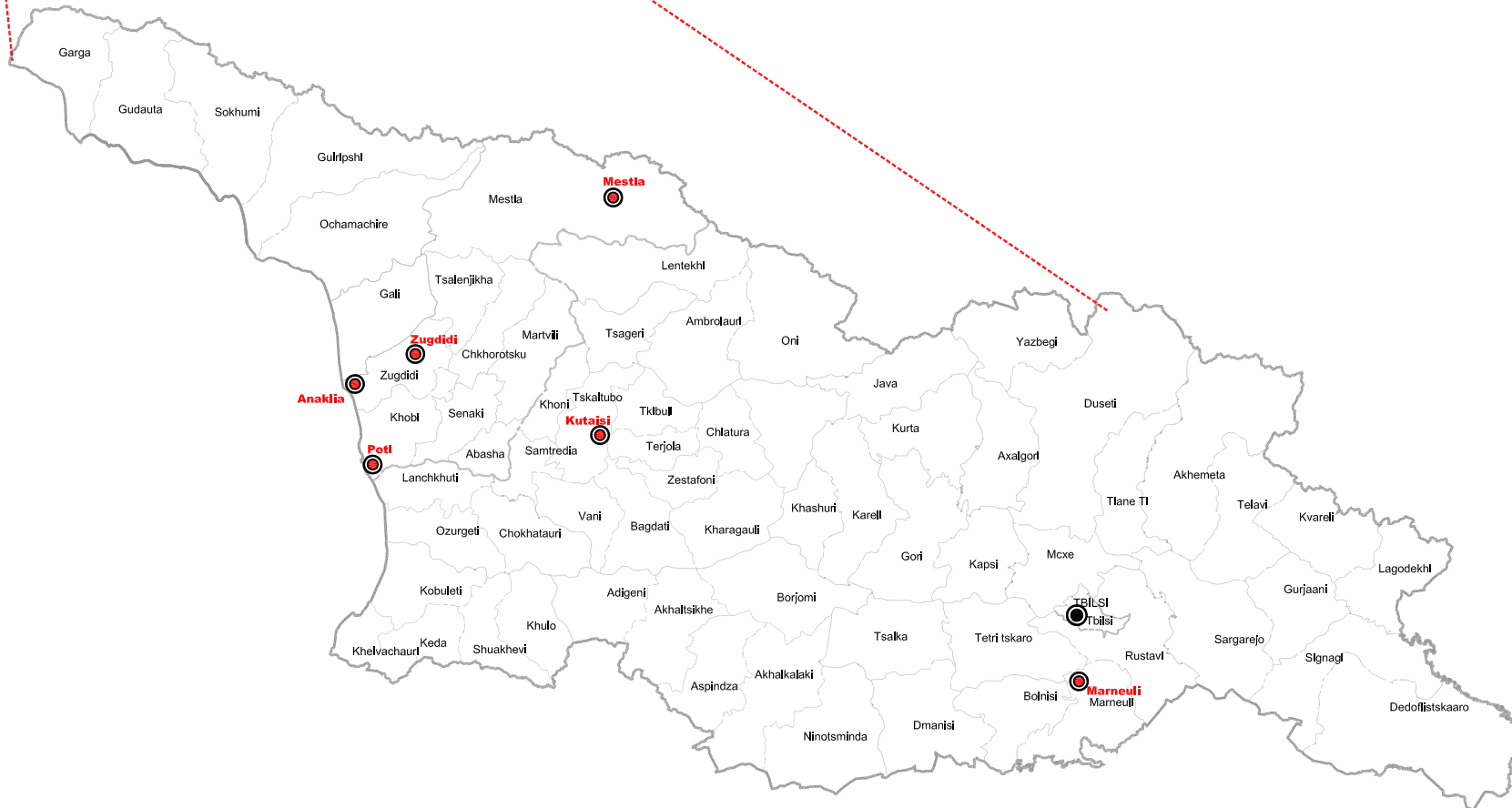


Georgia Urban Services Improvement Investment Program

Program Towns

Legend

-  Country Boundary
-  District Boundary
-  Project Town
-  Capital City



Client:
**Ministry of Regional Development & Infrastructure
 United Water Supply Company of Georgia**

Consultant:

Drawn:	Checked:
Date:	Approved:
Scale:	

10. The appraisal of the Investment Program and each specific tranche of the MFF, and the approval of the project implementation will follow the LAR-related conditions listed below:²

- (i) **MFF/first tranche appraisal:** Conditional to preparation and disclosure of a RF for the whole MFF acceptable to ADB and of the RPs for the tranche projects requiring LAR.
- (ii) **Approval of the Periodic Financial Request (PFR) for each of the following tranches and Contracts Awards signing:** Conditional to review, update and disclosure of the RF, preparation and disclosure of implementation-ready RPs for projects with LAR and consistent with the revised RF, and acceptable to ADB for projects with LAR.
- (iii) **Provision of notice to proceed to contractors:** Conditional to the full implementation of the RP (full delivery of compensation and rehabilitation) for the relevant project. Such a condition will be clearly spelled out in the text of the civil works contract.

C. Indigenous Peoples and Vulnerable Groups

11. No impact on indigenous people is expected from the Investment Program. Special attention will be given to identifying and addressing the needs of disadvantaged groups such as the landless, the poor, female-headed households, the elderly and the disabled, through measures included in the RP to try and improve (over and above cash compensations and restoration of) their livelihoods.

D. RP Preparation and Implementation

12. RP preparation activities will be initiated as part of the preparation of each tranche project starting with LAR screening tasks and ending with a readily implementable RP based on preliminary design.

13. Following the finalization of pipeline (water supply and sewerage) alignment and identification of the land parcels, cross-sections design and land acquisition requirement, a Detailed Measurement Survey (DMS), a census of all AF and AP and a valuation of all affected asset will be carried out to assess the AF or AP losses and relative compensation budgets.

14. In addition, a sample socio-economic survey will be conducted based on the 20% of the AFs. The socio-economic survey will cover major socio-economic features of the affected population (ethnicity, education level, modes of livelihood, and sources of income, poverty and income levels, and house type and value, and land tenure types). The DMS and census survey will include:

- (i) Inventory of the 100% loss of land parcel and property.
- (ii) Categorization and measurements of loss.
- (iii) Measurements of the affected assets and structures, including their replacement valuation.
- (iv) AF characteristics, including social, economic and demographic profile.

² These conditions apply only to projects involving LAR.

- (v) The AP and/or AF Census will identify all AF and their members by number, gender and age; all AF by land occupancy status; all severely AF (losing >10% of their productive land and all vulnerable AFs (female-headed family or family under poverty line).
- (vi) Identification of non titleholders.

15. **RP preparation and implementation process.** RP preparation for the first tranche of the Investment Program will be carried out by the Project Preparation Technical Assistance (PPTA) consultants, the same tasks for the following tranches will be carried out by the design consultants. RP implementation will be overseen by the Supervision Consultant. RP preparation and implementation will include:

- (i) **RP preparation.** This phase will be carried out in parallel with the preparation of the project feasibility study.
- (ii) **RP update and finalization.** This phase will be carried out during the preparation of detailed design and will include eventual updates of the impacts and AP data, possible revisions of compensation rates and the administrative work done to legalize legalizable APs. After the final RP is approved by ADB, the civil works contracts will be signed.
- (iii) **RP implementation.** This phase will be carried out after the final RP is approved. In principle, civil works will start only after all compensation and rehabilitation is provided to the APs. However, if a water supply and sewerage pipeline has sections without impacts and takes sufficiently long to economically justify construction, the civil works for those sections can be initiated immediately after contract awards. In such cases, due diligence reports fully documenting the absence of impacts will be prepared.

E. Legal and Policy Background

1. Georgia's Laws and Regulations on Land Acquisition and Resettlement

16. In Georgia, the legislative acts given below govern the process leading to obtaining State ownership rights for privately owned land parcels based on the necessary public needs caused due to water supply and sewerage constructions activities:

- (i) The Constitution of Georgia, August 24, 1995
- (ii) The Civil Code of Georgia, June 26, 1997
- (iii) The Law of Georgia on Cultural Heritage, 2007
- (iv) The Law of Georgia on Notary, 2009
- (v) The Law of Georgia on Privatization of State-owned Agricultural Land, July 8, 2005
- (vi) The Law of Georgia on Ownership Rights to Agricultural Land, March 22, 1996
- (vii) The Law of Georgia on Property Legalization, 2007
- (viii) The Law of Georgia on Public Register (No820 –lis; December 19 of 2008;
- (ix) The Law of Georgia on Property Rights On Land Plots under the Natural and Private Law Juridical Persons Ownership (Usage); 2007
- (x) The Law of Georgia on the Rules for Expropriation of Ownership for Necessary Public Need, July 23, 1999
- (xi) The Civil Procedural Code of Georgia, November 14, 1997

17. The existing laws provide that compensation for lost assets, including land, structures, trees and standing crops, should be based on the current market price without depreciation. Overall the above laws and regulations provide that the principle of replacement cost compensating at market value is reasonable and legally acceptable. The laws also identify the types of damages eligible to compensation and indicate that compensation is to be given both for loss of physical assets and for the loss of incomes. Finally, these laws place strong emphasis on consultation and notification to ensure that the APs participate in the process. Income loss due to loss of harvest and business closure will be compensated to cover net loss. The above-listed laws and regulations give the possibility of applying the following mechanisms for the legal application of the right of eminent domain in land acquisition processes:

- (i) Obtaining the right of way without expropriation through the payment of due compensation on the basis of fair market value prior to commencement of activities.
- (ii) Expropriation, which gives the possibility of obtaining permanent right to land and/or other real estate property on the basis of Eminent Domain Law or a court decision through the payment of due compensation.

18. Attempts should first be made to acquire private land on the basis of negotiation with individual affected entities. Should the negotiation fail, the power of eminent domain will be sought, and expropriation process will start. Under the existing Law in Georgia, the President of the Georgia will issue an order for expropriation based on the request from relevant state agencies. Relevant competent court will assess the Presidential Order and determine the case of public needs, and grant the expropriation entity rights to obtain land. The court will also appoint a third party to assess the market value of lost assets and determine the compensation payable to relevant land owners accordingly to the value of assets thus found.

2. ADB's Involuntary Resettlement Policy

19. The ADB safeguards on involuntary resettlement as laid down in the SPS 2009, is based on the following principles:

- (i) Screen the project early on to identify past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks.
- (ii) Carry out meaningful consultations with affected persons, host communities, and concerned nongovernment organizations. Inform all displaced persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programs. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land, and ensure their participation in consultations. Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns. Support the social and cultural institutions of displaced persons and their host population. Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase.

- (iii) Improve, or at least restore, the livelihoods of all displaced persons through (i) land-based resettlement strategies when affected livelihoods are land based where possible or cash compensation at replacement value for land when the loss of land does not undermine livelihoods, (ii) prompt replacement of assets with access to assets of equal or higher value, (iii) prompt compensation at full replacement cost for assets that cannot be restored, and (iv) additional revenues and services through benefit sharing schemes where possible.
- (iv) Provide physically and economically displaced persons with needed assistance, including the following: (i) if there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities, and extension of project benefits to host communities; (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (iii) civic infrastructure and community services, as required.
- (v) Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards. In rural areas provide them with legal and affordable access to land and resources, and in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing.
- (vi) Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.
- (vii) Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of nonland assets.
- (viii) Prepare a resettlement plan elaborating on displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.
- (ix) Disclose a draft resettlement plan, including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders. Disclose the final resettlement plan and its updates to affected persons and other stakeholders.
- (x) Conceive and execute involuntary resettlement as part of a development project or program. Include the full costs of resettlement in the presentation of project's costs and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation.
- (xi) Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout project implementation.

- (xii) Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.

3. Comparison of Georgia LAR Legislation and ADB SPS 2009

20. Overall, the legislation of Georgia adequately reflects the main provisions of the ADB SPS 2009 on involuntary resettlement safeguards but with a few differences (for a short summary of these laws see Annex A). The most significant difference is that under Georgian legislation, emphasis is on the definition of formal property rights and on how the acquisition of properties for public purposes is to be implemented and compensated. In the case of ADB SPS 2009, emphasis is on both compensation and livelihood rehabilitation.

21. Thus, ADB SPS 2009 complements the Georgian legislation with additional requirements related to (i) the economic rehabilitation of all AP and/or AF, including those without legal or formal rights on affected assets; (ii) the provision of indemnities for loss of business and income; and (iii) the provision of special allowances covering AP and/or AF expenses during the resettlement process or the special needs of severely affected or vulnerable AP and/or AFs.

22. Finally, the Georgian legislation does not require the preparation of RPs based on extensive public consultations. The differences between Georgia legislation and ADB policy are outlined in Table 1 below.

Table 1: Comparison of Georgia LAR Legislation and ADB SPS 2009

Georgia Laws and Regulations	ADB Involuntary Resettlement Policy
Land compensation only for titled landowners. In practice legalizable land owners are also compensated after they are issued with the necessary papers	Lack of title should not be a bar to compensation and/or rehabilitation. Non-titled landowners receive rehabilitation.
Only registered houses/buildings are compensated for damages/demolition caused by a project	All affected houses/buildings are compensated for buildings damages/demolition caused by a project
Crop losses compensation provided only to registered landowners.	Crop losses compensation provided to landowners and sharecrop/lease tenants whether registered or not
Land valuation based on replacement cost: (i) current market value where active land markets exist; (ii) Reproduction cost of an identical plot where no active land markets exist.	Land valuation based on replacement cost.
Land Acquisition Committee is the only pre-litigation final authority to decide disputes and address complaints regarding quantification and assessment of compensation for the affected assets.	Complaints & grievances are resolved informally through community participation in the Grievance Redress Committees (GRC), Local governments, and NGO and/or local-level community based organizations (CBOs).
Decisions regarding LAR are discussed only between the landowners and the Land Acquisition Authorities.	Information on quantification, affected items value assets, entitlements, and compensation/financial assistance amounts are to be disclosed to the APs prior to appraisal.
No provision for income/livelihood rehabilitation, allowances for severely affected or vulnerable APs, or resettlement expenses.	ADB policy requires rehabilitation for income/livelihood, severe losses, and for expenses incurred by the APs during the relocation process.
Georgian legislation does not consider the process of resettlement planning and its specific tools including preparation of any plan related to LAR	Time bound implementable LARP needs to be prepared before the disbursement of compensation.

Georgia Laws and Regulations	ADB Involuntary Resettlement Policy
No specific plan for public consultation is provided under the Georgian laws	Public consultation and participation is the integral part of ADB's policy which is a continuous process at conception, preparation, implementation and finally at post implementation period

23. To reconcile the gaps between Georgia legislations and ADB SPS 2009, UWSCG has drafted this RF for the Investment Program, which, after endorsement by the Government, is seen as a tool for ensuring compensation at replacement cost of all items, the rehabilitation of informal settlers, and the provision of subsidies or allowances for AFs that may be relocated, suffer business losses, or may be severely affected.

4. RF Principles and Entitlements

24. Based on the Georgian legislations on land acquisition and the provisions on involuntary resettlement in the ADB SPS 2009, core involuntary resettlement principles for the Investment Program are:

- (i) Land acquisition, and other involuntary resettlement impacts will be avoided or minimized exploring all viable alternative project designs;
- (ii) Where unavoidable, a time-bound RP will be prepared and APs will be assisted in improving or at least regaining their pre-project standard of living;
- (iii) Consultation with APs on compensation, disclosure of resettlement information to APs, and participation of APs in planning and implementing sub-projects will be ensured;
- (iv) Vulnerable and severely affected APs will be provided special assistance;
- (v) Non-titled APs (informal dwellers or squatters) will receive a livelihood allowance in lieu of land compensation and will be fully compensated for losses other than land;
- (vi) Legalizable APs will be legalized and fully compensated for land losses;
- (vii) Provision of income restoration and rehabilitation to all APs;
- (viii) The RP will be disclosed to the APs in the local language;
- (ix) Payment of compensation, resettlement assistance and rehabilitation measures will be completed prior to the contractor taking physical acquisition of the land and prior to the commencement of any construction activities on a particular package; and
- (x) Establishment of appropriate grievance redress mechanisms to solve APs grievance if it occurs.

F. Compensation Eligibility and Entitlements for the Project

25. LAR tasks under the Investment Program will be implemented according to a compensation eligibility and entitlements framework in line with both Georgia legislations and ADB SPS 2009. A summary entitlement matrix is included in **Table 2** below.

Table 2: Entitlement Matrix

Type of Loss	Application	Definition of APs	Compensation Entitlements
Land			
Permanent loss of agricultural land	AF losing agricultural land regardless of impact severity	Owner with full registration	Cash compensation at replacement cost or through replacement land equal in value / productivity to the plot lost and at location acceptable to APs where feasible.
		Legalizable Owner	These AP will be legalized and provided with cash compensation at replacement cost or through replacement land equal in value / productivity to the plot lost and at location acceptable to APs where feasible.
		Informal Settlers (AFs with no registration/valid documentation and non legalizable under the current legislation)	One time self-relocation allowance in cash. The relocation allowance is not dependent on the amount of AF members or land characteristics and constitutes fixed amount per family equal to 1 year at minimum subsistence income. ^{a/}
Non-Agricultural Land	AF losing their commercial/residential land	Owner with full registration	Cash compensation at replacement cost or through replacement land equal in value / productivity to the plot lost and at location acceptable to APs where feasible.
		Legalizable Owner	These APs will be legalized and provided with cash compensation at replacement cost or through replacement land equal in value / productivity to the plot lost and at location acceptable to APs where feasible.
		Renter/Leaseholder	Rental allowances in cash equal to 3 months of leasing costs, according to leasing fees approved by the municipalities for leasing the land of such category.
		Informal Settlers (AFs with no registration/valid documentation and not legalizable).	One time self-relocation allowance in cash. The relocation allowance is not dependent on the amount of AF members or land characteristics and constitutes fixed amount per family equal to the cost of hiring a transport vehicle and 1 month of minimum subsistence income.
Buildings and Structures			
Residential and non residential structures/assets		All AFs regardless of their legal ownership/ registration status (including legalizable and Informal Settlers)	Full impact: Cash compensation for loss of building/ structures at full replacement costs free of depreciation and transaction costs Partial impact: compensation for repairs
Loss Of Community Infrastructure/Common Property Resources			
Loss of common property	Community/Public Assets	Community/Government	Reconstruction of the lost structure in consultation with

Type of Loss	Application	Definition of APs	Compensation Entitlements
resources			community and restoration of their functions
Loss of Income and Livelihood			
Crops	Standing crops affected	All AFs regardless of legal status (including legalizable and informal settlers)	Crop compensation in cash at market rate by default at to gross crop value of expected harvest.
Trees	Trees affected	All AFs regardless of legal status (including legalizable and Informal Settlers)	Cash compensation at market rate on the basis of type, age and productive value of the trees.
Business/Employment	Business/employment loss	All AFs regardless of legal status (including legalizable and Informal Settlers)	Owner: (i). (permanent impact) cash indemnity of 1 year net income; (ii) (temporary impact) cash indemnity of net income for months of business stoppage. Income will be calculated based on tax declaration or in its absence minimum subsistence income. Permanent worker/employees: indemnity for lost wages up to 3 months of minimum subsistence income in case of permanent impacts.
Allowances			
Severe Impacts	>10% productive land loss	All severely affected AFs including informal settlers	Agricultural income: 1 additional crop compensation covering 1 year yield from affected land or 3 months of minimum subsistence income. Other income: 1 additional compensation for 3 months of minimum subsistence income.
Relocation/Shifting	Transport/transition costs	All AFs to be relocated	Provision of sufficient allowance to cover transport expenses and livelihood expenses for the transitional period (up to 1 month of minimum subsistence income).
Vulnerable People Allowances		AFs below poverty line, headed by Women, disabled or elderly	Allowance equivalent to 3 months of minimum subsistence income and employment priority in project-related jobs
Other Loss			
Temporary impact during construction		All AFs	A Rent fee will be assessed and paid based on this RF's principles during construction.
Temporary reduction of crop productivity as an extended impact of construction works		All AFs (regardless of legal status, including legalizable and Informal Settlers) losing crops/incomes	Additional crop compensation in cash at current market rate by to gross crop value of expected harvest during the period of reduced production.
Unforeseen impacts, if any			EA will compensate unforeseen resettlement impact during project based on this RF's provisions

a/ The minimum subsistence income will be calculated based on the monthly tables provided by the National Statistics Office of Georgia. Currently, it is GEL 290 for the family consisting of 5 persons; National Statistics Office of Georgia, October 2010

1. Eligibility

26. APs entitled for compensation or at least rehabilitation provisions under the Investment Program are:

- (i) All APs losing land either covered by legal title or traditional land rights, legalizable, or without legal status;
- (ii) Tenants and sharecroppers whether registered or not;
- (iii) Owners of buildings, crops, plants, or other objects attached to the land; and
- (iv) APs losing business, income, and salaries.

27. Compensation eligibility will be limited by a cut-off date to be set for each subproject on the day of the beginning of the AP Census and DMS. APs who settle in the affected areas after the cut-off date will not be eligible for compensation. They, however will be given sufficient advance notice, requested to vacate premises and dismantle affected structures prior to project implementation. Their dismantled structures materials will not be confiscated and they will not pay any fine or suffer any sanction.

2. Compensation Entitlements

28. Entitlement provisions for APs losing land, houses, and income and rehabilitation subsidies will include provisions for permanent or temporary land losses, buildings losses, crops and trees losses, a relocation subsidy, and a business losses allowance based on tax declarations and/or lump sums. These entitlements are detailed below:

- (i) **Agricultural land impacts** will be compensated at replacement value in: (i) cash at current market rates or based on an assessment of the productive capacity of the affected land, or (ii) through replacement land equal in value/productivity to the plot lost. When >10% of an AP agricultural land is affected, AP (owners, leaseholders and sharecroppers) will get an additional allowance for *severe impacts equal to* the market value of a year's gross yield of the land lost. Transaction taxes and fees will be paid by the EA or waived. Legalizable APs will be legalized and paid as titled owners. Non-legalizable APs will be compensated with one time self-relocation allowance in cash. This allowance is not dependent on the amount of AF members or land characteristics and constitutes a fixed amount per family equal to 1 year at minimum subsistence allowance.
- (ii) **Non agricultural land (Residential/commercial land)**. Legal settlers will be compensated at replacement rate in form of cash at current market rates free of transaction costs and depreciation. Renters/leaseholders will receive a rent allowance in cash equal to 3 months of leasing costs, according to leasing fees approved by the municipalities for leasing the land of such category. Non-titled and non-legalizable land users will be compensated with one time self relocation allowance in cash. This allowance is not dependent on the amount of AF members or land characteristics and constitutes fixed amount per family equal to 1 year minimum subsistence allowance.
- (iii) **Houses, buildings, and structures** will be compensated in cash at replacement cost free of deductions for depreciation, and transaction costs irrespective of the registration status of the affected item. In case of partial impacts (<15%) and unwillingness of the owner to relocate building impacts will cover only the affected portion of a building and it

full rehabilitation to previous use. Full compensation will be paid if partial impacts imperil the viability of the whole building.

- (iv) **Crops:** Cash compensation at current market rates for the value of 1 year's harvest by default as detailed below in paragraph (assessment of compensation unit values (iii)). Crop compensation will be paid both to landowners and tenants based on their specific sharecropping agreements. In case of anticipated temporary reduction of crop productivity as an extended impact of construction works, additional crop compensation in cash will be paid to AF at current market rate by to gross crop value of expected harvest during the period of reduced production (in general 2-3 years).
- (v) **Trees:** Cash compensation at market rate based on type, age and productivity of trees.
- (vi) **Businesses:** If business is lost permanently it will be compensated in cash equal to a 1-year income based on tax declaration or, if unavailable, based on the official minimum salary. Temporary business losses will be compensated in cash for the business interruption period up to 1 year based on tax records or, if unavailable, minimum subsistence allowance.
- (vii) **Permanent business workers and employees:** Indemnity for lost wages for the period of business interruption up to a maximum of 3 months in case of permanent impact. Based on tax declaration or in its absence minimum subsistence allowance.
- (viii) **Relocation subsidy:** APs forced to relocate will receive a relocation subsidy sufficient to cover transport costs and living expenses for 1 month based on minimum subsistence allowance.
- (ix) **Severe impacts (>10% loss of income):**
 - a. Agricultural income: 1 additional crop compensation covering 1 year yield from affected land or 3 months of minimum subsistence income.
 - b. Other income: One additional compensation for 3 months of minimum subsistence income will be fully replaced or rehabilitated so as to satisfy their pre-project functions.
- (x) **Vulnerable people Livelihood:** Vulnerable people (APs below poverty line and widow or elder headed households) will be given a 3 months allowance in cash based on the Minimum Subsistence Income and priority in employment in project-related jobs.
- (xi) **Community Structures and Public Utilities:** Will be fully replaced or rehabilitated so as to satisfy their pre-project functions. Community Structures and Public Utilities: Will be fully replaced or rehabilitated so as to satisfy their pre-project functions.
- (xii) **Vulnerable People Livelihood:** Vulnerable people (APs below poverty line and widow or elder headed households) will be given a 3 months allowance in cash and priority in employment in project-related jobs.

3. Assessment of Compensation Unit Values

29. The methodology for assessing unit compensation values of different items is as follows:
- (i) Agricultural Land will be valued at replacement rates according to two different methodologies depending on whether in affected areas active land markets exist or not.
 - a. Where active land markets exist land will be compensated at replacement rate based on a survey of land sales in the year before the impact survey.

- b. Where active land markets do not exist land will be compensated based on an assessment of the productive capacity of a plot with equal features, access and productivity to the plot lost. A clear valuation methodology for these cases will be detailed in the RPs.
- (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 at the farm gate for the first year crop. In the eventuality that more than one-year compensation is due to the APs the crops after the first will be compensated at net market value.
- (iv) Trees will be valued according to different methodologies depending whether the tree lost is a wood tree or a productive tree.
 - a. Wood trees will be valued based on species, age category (a. seedling; b. medium growth, and c. full growth) and wood value and volume.
 - b. Fruit/productive trees will be valued based on species and productive age (a. seedling; b. adult-not fruit bearing; and c. fruit bearing). Stage (a) and (b) trees will be compensated based on the value of the investment made; stage (c) trees will be compensated at net market value of 1 year income x number of years needed to grow a new fully productive tree.

30. The unit compensation rates will be assessed by an authorized evaluator based on clear and transparent methods acceptable to ADB. The assessed compensation rates will then be verified and certified by the resettlement division in UWSCG.

4. Conditions for Expropriation

31. Acquisition of land through expropriation proceedings entails lengthy procedures which often may be resisted. Such an approach will thus be pursued only in extreme cases if negotiations between APs and Municipal LAR Office (MLARO) fail and no alternative land is available to implement a project. In these cases, however, the project will not occupy the needed plots until: (i) the proper judicial process as defined by the law (see annex A) is initiated; (ii) a court injunction is obtained and communicated to the APs; and (iii) the compensation and/or rehabilitation amounts are deposited in an escrow account.

G. Surveys, Impacts Assessment and Resettlement Planning

32. The preparation of subprojects entailing LAR will include the preparation of RPs including the results of (i) a detailed measurement survey fully assessing and evaluating all project impacts, including severe impacts (>10% of income or land); (ii) of a census fully enumerating all AF and AP and providing basic information on their age, gender, education, ethnic group, on severely affected and vulnerable AFs. In addition to these basic investigations which are based on a 100% statistical sample, the RPs will also provide general socio-economic information on income sources, income levels, type of crops cultivated and business in the affected communities based on a minimal sample of the AF of at least 20% but possibly larger in case of projects with small numbers of AF.

H. Gender Impact and Mitigation Measures

33. Women have important economic roles in project areas and engage in a very wide range of income generating activities in the agricultural and marketing sector. The project will pay particular attention to ensure that women are the recipients of the compensation pertaining to their activities and to ensure that women who are de-facto household heads are clearly listed as beneficiaries of compensation and rehabilitation proceedings under the loan. In order to ensure the above the following actions will be considered:

- (i) Include women in the impact enumerators.
- (ii) Impact assessment of AFs/APs indicating the total number of families and people must be gender-disaggregated to pinpoint how many women are likely to be affected by the project and establish their pre-project conditions.
- (iii) Women will be major participants in the consultation processes to determine and negotiate for compensation entitlements and implement the RP.
- (iv) Special attention will be given to the impact of resettlement on women and other vulnerable groups during monitoring and evaluation of the RP.

I. Public Consultation, Participation and Documents Disclosure

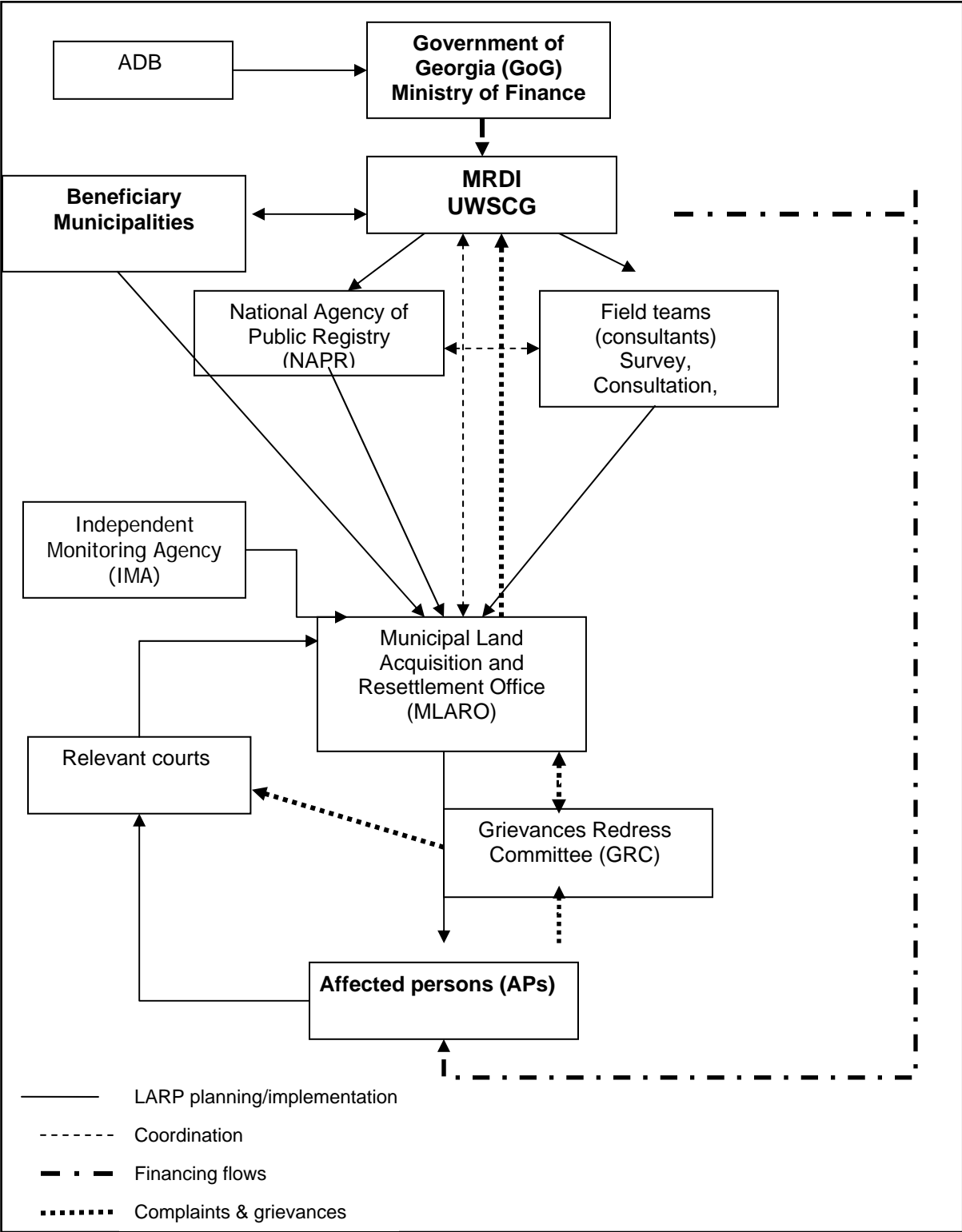
34. Concerned officials of centre, local governments, municipalities and villages will be informed about the project, and their assistance will be solicited in the conduct of the inventory of affected assets and the Census of APs and the DMS. Also, prior to the finalization of the RP and its submission to project authorities, the APs will be thoroughly informed on the results of the Census and DMS, and their preferences on compensation or other resettlement assistance will be given due consideration. The processes and mechanisms ensuring the active involvement of APs and other stakeholders will be detailed in the RPs which will also include an appendix with date, list of participants, and minutes of consultation meetings.

35. This RF in Georgian will be disclosed on the UWSCG website and at UWSCG offices before Investment Program appraisal. The RF in Georgian will also be disclosed to the APs at the relevant municipality office and at village relevant administration once subprojects are identified. Its English version will be disclosed on the ADB website prior to Investment Program review meeting and after the RF is endorsed by the GoG. Once a RP for a subproject has been prepared and approved by UWSCG and ADB, it will be disclosed at the relevant municipality office and/or village relevant administration. A pamphlet in Georgian, summarizing compensation eligibility and entitlement provisions, will be sent to all APs and AFs before entering into negotiations of resettlement agreements with the government, the initiation of the compensation and rehabilitation process, and before signing contract awards. The consultation process will be continued throughout the project cycle.

J. Institutional Arrangements

36. The compensation and rehabilitation program described in this RF involves distinct processes and dynamics and different actors. These actors include MoRDI as the Executing Agency and UWSCG as the Implementing Agency, the municipal governments, the Government of Georgia (GoG), the National Agency of Public Registry (NAPR), ADB, NGOs and consultants. The role of each of these actors is detailed in the next paragraphs and in the organization chart illustrated in **Figure 2**.

Figure 2: LAR Organization Chart and Interactions



1. MoRDI and UWSCG

37. MoRDI has overall executive responsibility for the Investment Program, including approving the RPs and ensuring that the work of UWSCG is carried out based on this RF.

38. UWSCG will be directly responsible for all immediate LAR tasks both at central and local government level. Among other tasks UWSCG will be responsible for (i) screening the projects; (ii) preparing and implementing the RPs, reviewing them for approval of ADB and MoRDI, and; (iii) hiring and supervising the LAR consultants; (iii) establishing needed LAR capacity in each Municipality where LAR is relevant; (iv) ensuring proper internal monitoring; and (v) hire, following ADB recommendation, the external monitoring agencies. UWSCG will also provide all needed documentation to ensure the prompt allocation of LAR budgets from the Government of Georgia and further payments to the APs, will maintain the coordination on all LAR related activities, and will engage in training as needed. UWSCG will include an officer with specific responsibility for the above tasks in the Investment Program Management Office. In order to give UWSCG the needed capacity to carry out these multiple and complex tasks the Investment Program will provide to UWSCG the needed training.

2. Local Governments

39. For RP preparation and execution and general day-to-day project activities at the municipality level, UWSCG will rely on a **Municipal LAR Office (MLARO)**. This will be an office standing for the entire duration of the LAR activities of a project. The MLARO will be staffed with one or more officers with LAR experience hired by UWSCG or seconded from other municipal offices. Besides ensuring proper coordination between all concerned municipal offices, MLARO will intensively assist UWSCG and the LAR consultants in the conduction of impacts surveys, of AP censuses, of public consultation and agreement negotiation tasks. MLARO is the structure responsible for the RP implementation and all routine activities related to it. UWSCG will ensure that the MLARO gets sufficient trainings to be efficient in its functionality.

3. Consultants

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

- (i) **PPTA Consultants.** These include international and local LAR capacity and survey teams, carry out all field-surveys and prepare the RPs for the first tranche.
- (ii) **Design Consultants.** These include international/local LAR capacity and survey teams carry out the same activities of the PPTA consultants for following tranches.
- (iii) **Supervision Consultants.** These include international and national LAR capacity and survey teams to assist in the overall supervision of projects including RP implementation, monitoring, and evaluation of RP implementation for the second and subsequent tranches of the Investment Program.
- (iv) **Independent Monitoring Agency (IMA).** This consultant will be hired to conduct the monitoring, evaluation and validation of the implementation of tranche 1 RP implementation. An IMA will be appointed for subsequent tranches based on RP requirement.
- (v) **Independent Asset Valuers.** These will be accredited private firms to be hired by the PPTA or Design Consultants to carry out the evaluation of affected assets.

4. Other Agencies and Institutions

41. A number of other institutions will have a role in the preparation and/or implementation of the LAR for projects under the Investment Program, among these the most notable are:

- (i) **Ministry of Finance (MoF), GoG.** The finances for the implementation of the RPs will be provided by MoF to UWSCG upon the presentation to them of the RPs and relative budgets. As the implementation of the LARPs is a condition to start the civil works it will be essential that upon the presentation MoF executes payments immediately.
- (ii) **Courts.** For expropriation, UWSCG will have to rely on local courts which based on due legal process will review the cases, carry out a hearing and decide whether the land can be expropriated and at what price. In order to expedite the expropriation process UWSCG may negotiate with the courts a fast-tracked action.
- (iii) **ADB.** Besides monitoring the Investment Program implementation, ADB will review all RPs and clear contract awards and initiation of civil works for all projects with LAR.

K. Complaints and Grievances

42. A grievance mechanism will be available to allow an AP appealing any disagreeable decision, practice or activity arising from land or other assets compensation. APs will be fully informed of their rights and of the procedures for addressing complaints whether verbally or in writing during consultation, survey, and time of compensation. Care will always be taken to prevent grievances rather than going through a redress process. This can be obtained through careful LAR design and implementation, by ensuring full participation and consultation with the APs, and by establishing extensive communication and coordination between the affected communities, the EA, IA, and local governments in general.

43. In order to mitigate the possible disputes and conflicts during the RP implementation process Grievance Redress Committee (GRC) will be established at the local-self government or municipality level. The GRC shall comprise of the following members:

- (i) Representative of MLARO
- (ii) Head, Department of Social Issues of the Municipality (Rayon)– Chairman
- (iii) Representative of the Mayors and village administration (Gamgebeli)
- (iv) Designated informal leader of project affected communities
- (v) Representative of local NGOs or local (rayon level) society, if available

44. UWSCG will ensure that the GRC, as well as MLARO receives sufficient training to be efficient in their functionality. The complaint and grievance redress mechanism will follow the process described below in **Table 3**.

Table 3: Grievance Resolution Process

Land/ Crops Compensation Issues
1. First, complaints resolution will be attempted at village level with the involvement of village authorities, the assisting NGO and informal mediators.
2. If still unsettled, a grievance can then be lodged to the GRC. The AP will be invited by the GRC two weeks after the complaints had been filed to hear the case. Two days after the hearing the GRC will inform the AP whether the case is to be dismissed or whether recommendation has been made to UWSCG for settling the case.

3. If after the GRC intervention no solution has been reached a grievance can be directly lodged to MLARO. The AP must lodge the complaint within 2 weeks after receiving response on the original complaint from the GRC and must produce documents supporting his/her claim. The MLARO will provide a response within 2 weeks of registering the complaint. The MLARO decision must be in compliance with this RF provisions.

4. Should the grievance redress system fail to satisfy the AP, they can pursue further action by submitting their case to the appropriate court of law (Rayon Court). The implementing NGO may help the APs in this process.

L. Monitoring and Evaluation

45. LAR tasks under the Investment Program will be subjected to both internal and external monitoring. Internal monitoring will be conducted by UWSCG. External monitoring will be assigned to an IMA to be hired by UWSCG and approved by ADB. The IMA will be selected among NGOs, academic Institutions, or consulting firms. ADB will advise UWSCG on the IMA's terms of reference once project implementation has begun.

1. Internal Monitoring

46. Internal monitoring will be carried out routinely by UWSCG either directly or through the services of a consultant. The results will be communicated to ADB through the quarterly project implementation reports. Indicators for the internal monitoring will be those related to process and immediate outputs and results. This information will be collected directly from the field level MLARO and reported monthly to UWSCG to assess the progress and results of RP implementation, and to adjust the work program, if necessary. The monthly reports will be quarterly consolidated in the standard supervision reports to ADB. Specific monitoring benchmarks will be:

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

47. The above information will be collected by UWSCG which is responsible for monitoring the day-to-day resettlement activities of the project through the following instruments:

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

2. External Monitoring

48. External monitoring will be carried out by an ad hoc Independent Monitoring Agency (IMA) to be hired by the EA or if already fielded by the LAR specialists under the Supervision Consultant. External monitoring will be carried out in two phases: once during the implementation of the RP and once a year later. The second phase will be undertaken only for projects classified as 'A' for impact severity.

49. **Phase One: Independent Monitoring of RP implementation.** This phase will be carried in parallel with the implementation of the compensation program under a RP and will include the following tasks:

- (i) review of RP and information pamphlet disclosure;
- (ii) review of action taken by the UWSCG to compensate the APs with particular attention to the way this action fits the stipulation of the RP;
- (iii) review all compensation tallies; (iv) verify whether the compensation is provided thoroughly to all APs and in the amounts defined in the RP and in the AP contracts;
- (iv) assess the satisfaction of the APs with the information campaign and with the compensation/rehabilitation package offered to them;
- (v) review the legalization process and assess its effectiveness;
- (vi) review complaints and grievances case; and
- (vii) carry out an AP satisfaction survey with a 20% sample of the APs.

50. Immediately after the implementation of the RP the IMA will prepare the Compliance Report. The report will include well argued sections on the following:

- (i) Assessment of the way the compensation has been carried out in relation to RP stipulations;
- (ii) Verification that all APs have been compensated in the amounts stipulated in the RP;
- (iii) Assessment of the accuracy of survey and asset valuation;
- (iv) Assessment of the effectiveness and thoroughness of the legalization process;
- (v) Review of complaint and grievance cases and of their solution;
- (vi) Assessment of the rehabilitation program for severely affected and vulnerable APs;
- (vii) Assessment of the satisfaction of the APs;
- (viii) Lesson learned to be applied to the next projects; and
- (ix) General assessment of RP implementation and recommendations to ADB regarding the provision of No Objection Letter to start the civil works

51. **Phase two: Post-RP implementation evaluation.** This phase will be carried out a year after the RP is fully implemented only for projects classified as A for impacts severity. The compelling reason for this study is to find out if the objectives of the RP have been attained or not. The benchmark data of socioeconomic survey (including a poverty and social assessment) of severely affected APs conducted during the preparation of the RP will be used to compare the pre and post project conditions. The IMA will recommend appropriate supplemental assistance for the APs should the outcome of the study show that the objectives of the RP have not been attained. For this task the IMA will:

- (i) Review as needed the survey indicators.
- (ii) Assess the livelihood impact of the land acquisition/resettlement on the APs through formal and informal surveys with the population in project areas affected and non-affected. The IMA shall conduct a formal survey of a representative sample of men and women APs to determine changes that have occurred on the APs. In parallel the IMA will also compare the situation of the APs with non- affected neighbors similar in terms of livelihood level to the APs. Focus group discussions and other unstructured data gathering methods and consultation with APs, officials and community leaders will also be used in carrying out the evaluation to supplement the findings from the formal survey. Finally the assessment will look into potential differential impact or

benefit that men and women have APs experienced from the resettlement activities. The result of the surveys will serve as the end term review report of the IMA for the project.

- (iii) Assess the satisfaction on the valuation of assets and entitlements, timing of payments, fund availability and disbursements. In the same post-RP survey, the IMA shall ascertain the satisfaction of APs on the valuation of assets, as well as, the scope and timing of assistance provided under the RP.
- (iv) Assess the long-term efficiency, effectiveness and sustainability of the land acquisition/resettlement program, drawing lessons for future resettlement policy formulation and planning and future RP planning and implementation. Should the outcome of the study show that the RP objectives have not been attained, the IMA will recommend appropriate supplemental assistance for the APs.
- (v) Prior to submission of the post-RP report, the IMA shall ensure that informal and formal meetings are held with the men and women representatives from the APs, community leaders and other key officials and seek feedback on the contents/analysis in the review report. Highlights of these consultations will also be attached as annex to the report.

M. Capacity Building and Training in RP Implementation

52. To allow an effective execution of all LAR related tasks some expansion of the capacity on LAR currently available at UWSCG may be needed. As soon as the Investment Program becomes effective, UWSCG will carry out with ADB and the Supervision Consultant assistance a capacity needs assessment and will define the capacity building activities and if needed the additional experts required. Financing for capacity building initiatives will be included under the capacity building component of the Investment Program.

53. All concerned staff both at MLARO and GRC will undergo a two days orientation and training in ADB resettlement policy and management to be provided either by a consultant hired by UWSCG or by the Supervision Consultant's resettlement expert. Training will cover the following topics:

- (i) Principles and procedures of land acquisition;
- (ii) Public consultation and participation;
- (iii) Entitlements, compensation and assistance disbursement mechanisms;
- (iv) Grievance redress; and
- (v) Monitoring of resettlement operations.

N. Resettlement Budget and Financing

54. All RP preparation and implementation costs, including cost of compensation and LAR administration, will be considered an integral part of the project cost and will be contributed as a counterpart fund by the Government of Georgia. The funds allocated by MoF will be delivered to APs by UWSCG. Each RP will include a budget section indicating (i) unit compensation rates for all affected items and allowances; (ii) methodology followed for the computation of unit compensation rates; and (iii) a cost table for all compensation expenses including administrative costs and contingencies. Costs for external monitoring tasks and for the preparation of surveys and RPs may be allocated under the MFF.

55. MoRDI is responsible for ensuring timely allocation of funds by MoF needed for RP implementation. Allocations will be reviewed twice a year based on the budget requirements indicated by the RPs. As per the LAR finances flow the budget for compensation and rehabilitation will be directly disbursed by UWSCG to the AP.

O. RP Preparation and Implementation Process

56. Based on experience in Georgia preparing and implementing a RP may require a few months and will require the steps summarized in Table 4 below.

Table 4: Resettlement Plan Process

Step	Action	Responsibility
A)	Project Selection	
1	Subprojects identification and screening	UWSCG/Consultants/ADB
B)	RP PREPARATION	
1	Assessment of Project's Poverty and Social Impacts	UWSCG/Consultants
2	Finalization of Detailed design	Design consultants
3	Prepare surveys forms for Census and DMS, train local Census and DMS teams, and establish coordination with relevant local government agencies.	Consultant
4	Collection of cadastral and land parcel maps of the project area	Consultants/MLARO/NAPR
5	Verify land records in affected areas, update cadastral maps and carry out impacts and valuation surveys – Detailed Measurement Survey (DMS)	Consultant/MLARO and NVC
7	Conduct public consultations	Consultant/MLARO
8	Negotiations with APs	Consultant/MLARO
9	Integrate data from Census into the RP	Consultant
10	Submission of LARP to UWSCG, local governments and ADB for approval	Consultant/UWSCG/ADB
C)	RP IMPLEMENTATION	
1	RP disclosure: Distribution of RP and information pamphlets in Georgia in the affected communities; posting of RP in English on the ADB website	UWSCG/Consultant/MLARO/ADB
2	Approval of Contract awards Signing	ADB
3	Distribution of Relocation Notices to APs	UWSCG/MLARO/ Local Govt
4	Award of Cheques for Land Compensation	UWSCG/MLARO
5	Award of Cheques for other Compensation & Assistance/ Rehabilitation	UWSCG/MLARO
6	Demolishing/ Relocation of Affected Structures/Assets	UWSCG
7	Review of RP Implementation	UWSCG/ADB
8	If RP Implementation found satisfactory, notice to proceed for Civil works is issued	ADB/UWSCG
D)	POST-IMPLEMENTATION TASKS	
1	Independent evaluation of RP	IMA
E)	CYCLICAL/CONTINUOUS TASKS	
1	Internal monitoring. Quarterly reporting on LAD to ADB	UWSCG
2	External Monitoring. Semi-annual reporting to ADB	IMA
3	Grievances Redress/Law Suites	GRC/MLARO/Court
4	Inter-agency coordination and Communication with AP	UWSCG

ANNEX A

SYNOPSIS OF SELECTED GEORGIA LAWS AND REGULATIONS ON LAR

A. The Constitution of Georgia

1. The Constitution determines the essence of private ownership and defines presumption of inviolability however also regulates the issues related to compensation and expropriation of land and immovable property for necessary public need. The Constitution of Georgia ensures the publicity of information. Pursuant to the Article 21 of the Constitution of Georgia “the right of ownership and inheritance is declared and secured”. No body is eligible cancel the universal right of ownership and legacy. Throughout of the necessary public need or if the urgent necessity has emerged, the Article 21.3 of the Constitution allows the expropriation of the private ownership however, only according to the Court Decision or under the rules identified in the organic law³ on basis of the appropriate and fair reimbursement.

2. Other articles of the Constitution of Georgia also create legislative basis in respect with Land Acquisition and resettlement issues. These considers the State actions for expropriation of land for urgent public need, i.e. exercising the right of expropriation (power of eminent domain), also information disclosure and public consultations, protection of cultural heritage and grievance redress related to land acquisition and resettlement of population.

3. The Constitution ensures the right of a citizen to live in safe and healthy environment and use natural and cultural environment. The State undertakes environment protection measures to secure safe environment for people. People have the right to obtain "full, true and timely information" in regard with their work place and residential environment.

4. The Article 42 of the Constitution makes the citizens eligible to claim, in particular protects them and encourages appealing to the court for protection of their rights and freedom.

B. Civil Code of Georgia

5. The Civil Code of Georgia regulates private civil relationships and evolves property rights, obligations, family law and the law on inheritance. Those regulations of the Civil Code that describes ownership right to property and considers right to build, servitude and other rights directly apply to the given project.

6. **Ownership Rights.** The ownership right entitles its beneficiary to freely possess and use property. It may be limited under the legislation or contractual basis. Ownership on the land parcel gives implicit right to land owner to implement construction activities if it is not restricted by any agreement or law. Alienation of real property is not limited under the Civil Code of Georgia. Pursuant to the article 183 of the Civil Code of Georgia “in order to purchase real property the agreement shall be made in a written format and the ownership right shall be registered on the name of the buyer at the Public Register”. The agreement - based on which one person purchases and the other sells the real property may be notarized. The agreement also may be proved by the person identified under the law (Article 69 of the Civil Code of Georgia). Presently the agreement of sales transaction of real property may be proved by the representative of the Public Register. The presumption of veracity and completeness of entries

³ In the hierarchy of the laws the Organic Law stands between the Constitution and other laws, what highlights the significant importance of the latest.

operate with respect to the Public Register, pursuant to the paragraph 1, Article 312 “an entry in the Public Register shall be deemed to be accurate until its inaccuracy is proven.

7. **Right to Build.** The owner is allowed to transfer a land plot to another person in temporary usage (not to exceed 59 years) for charge or free of charge. The transferee obtains the right to build a building/construction on or under the land plot, as well as to assign and transfer this right under inheritance or tenancy, borrowing or renting. The construction right may cover such part of a land plot that is not necessary for the actual construction but allows a better use of the facility constructed on the basis of the construction permit. Termination of the construction right requires consent from the landowner. Based on the Article 180 of this Code, if a land parcel lacks the access to public roads that are necessary for its adequate use, the other owner may claim from a neighbour to tolerate the use of his land parcel by the owner for the purpose of providing the necessary access. The mentioned article may be used for road construction, though the determination of necessary right of way is rather complicated procedure and in case of road construction evolves the obligations to prove the existence of the elements of such rights. In case of necessary right of way, the implementer of road project shall have the right to undertake road construction notwithstanding the owner’s will.

8. **Right of Servitude.** This right shall also be noted that according to the Civil Code of Georgia means the restriction imposed onto a land parcel or real property in favor of the owner (beneficiary) of another land parcel or real property. The Beneficiary is granted the right to use land parcel under restriction with some conditions and /or restricts undertaking specific activities or prohibits land owner to exercise some rights against this land parcel. However, in regard with this project, terms and conditions for transfer of any right (among them ownership, construction, necessary right of way or servitude) shall be defined against each land parcel in accordance to the identified rule and on the basis of the agreement entered between the land owner and the party holding appropriate right to act so. This agreement shall be registered at the Public Register.

C. Law of Georgia on the Protection of Cultural Heritage

9. In addition to the Constitution of Georgia affirming the State's obligation to protect cultural heritage and requiring each citizen to care for, protect and preserve cultural heritage the Law of Georgia on Protection of Cultural Heritage defines the legislative principals for protection of existing cultural heritages in Georgia.

10. According to the Law, State protection of cultural heritage is undertaken by the Ministry of Culture, Monuments Protection and Sport, Ministry of Justice of Georgia, local self-government bodies, as well as other State Institutions, Public and Legal Persons of Private Law; On the territories of Abkhazia and Adjara autonomous republics the corresponding bodies of Abkhazia and Adjara autonomous republics within the scope of authority defined under the legislation of Georgia. It is worth to be mentioned that the State and local self-government bodies exercise their authorities in the sphere of protection of cultural heritage in accordance to the Constitutional Agreement between the State and the Orthodox Church of Georgia. The Ministry of Culture, Monuments Protection and Sports of Georgia provides general coordination and manages the activities undertaken in this sphere.

11. In respect with the ownership rights, the Law identifies some differentiations. Namely, the alienation of the State-owned land parcel - located within the zone of State-owned monument, considered as cultural valuables, or located within archeologically protected area -

with the right to possess and use the Law considers the agreement with the Ministry of Culture, Monuments Protection and Sports with the terms and conditions of protecting and care being identified ahead. On the other hand, the Law directly restricts alienation of the monuments under private ownership that can only be alienated under the right to possess, and use and with the terms and conditions to care-and protect.

D. The Law of Georgia on Notary

12. The stated law defines the types of notary actions and rule of their implementation. Also the law defines which institutions and authorized persons except the Notaries have right to conduct Notary actions within the territory of Georgia and beyond it. On the basis of the Article 42 of the Law the local self-governments have right to implement Notary actions related to inheritance, accuracy of the copy to the original document, proving the fact that a citizen is alive, proving the fact of a citizen's certain location. Rural population often apply to local self-governments to conduct certain notary actions. Especially, when it is required to identify a person and a document, or the notary actions are required to replace the deceased head of the household with a new member. This rule is often utilized in registration of the land parcels when as the owner of the land parcel the other member of the household is registered in place of the deceased member. The representatives of the Consulates of Georgia (consuls) also other key persons at the Consulates are eligible to conduct notary actions on behalf of the State of Georgia beyond the territory of the country (Article 43). Citizens being abroad may apply to the Consulate of Georgia in the county of their location.

E. The Law of Georgia on Privatization of State-owned Agricultural Land

13. The Law regulates the privatization of State-owned agricultural land. On the basis of this law the leased or non leased State-owned agricultural land subject to privatization. However, the categories of agricultural lands listed below do not subject to privatization:

- (i) grazing lands except the grazing lands which before law enactment were leased; grazing lands attached to existing structures being under ownership of legal and/or physical persons or state ownership in accordance to the rule refined by the Law;
- (ii) Cattle-driving routs;
- (iii) Water fund land, except fish breeding artificial ponds and the lands of common water use category utilized as agricultural lands in accordance to the Law of Georgia on Water.
- (iv) Forest fund land used under agricultural designation;
- (v) Recreation lands;
- (vi) Lands allocated to Historical monuments, nature and religious monuments;
- (vii) Land of protected areas;
- (viii) Agricultural lands assigned as reform land in Adjara Autonomous republic;
- (ix) Agricultural lands being used by Budgetary Institutions and legal entities of public law in the form of usufruct.

14. Privatization of the two categories (forest fund and recreation land) of agricultural land is still allowed, although only for development of resort-recreation infrastructure in accordance to the decision of the Government of Georgia.

F. The Law of Georgia on Ownership to Agricultural Land

15. The current law is completely different from the initial version adopted in 1996. The changes made in this law in different times (among them the amendments on the basis of the Law # 389 as of July 14, 2000) have significantly changed its initial format and simplified to maximum extend the procedures regulated by this Law.

16. Article 3.1 defines that "a land parcel with or without household structure that is registered at the public register and used for cattle-breeding and plant cultivation produces is considered as an agricultural land parcel" with existing household and additional structures or without them. Also the share of a member of household community within the shared hay fields, grazing lands or forestry areas and the part of the agricultural land that may be the object "of separate ownership right" (Article 3.2).

17. The same Law determines that the ownership right to agricultural land is granted to the State, citizen of Georgia, household (komli) and legal person registered in accordance to the legislation of Georgia, which carries out his activities in agricultural sphere. Besides, the Law declares the State, private and community ownership right to grazing lands in the high mountain regions (Article 43).

18. Also, according to the limitations determined under this law, a foreigner and legal person registered abroad held ownership right only to the bequeathed agricultural land parcels and foreigners also in case when as citizens of Georgia they reasonably possessed agricultural land parcels. Besides, it is worth to be considered that foreigners and legal persons registered abroad are obliged to alienate privately owned agricultural land parcels to the citizen of Georgia, Komli and/or legal person registered in Georgia according to the legislation of Georgia within six months period since they obtained private ownership to the given land parcel. Besides, in case this legal requirement is neglected, private ownership to the agricultural land parcels privately owned by foreigners and legal persons registered abroad shall be taken away under the Court Decision and in return of due compensation. (The standards identified by the Law of Georgia on the Rules for Expropriation of Ownership for Necessary Public Need shall also be exercised in given case).

19. According to Articles 6 and 8, acquisition of agricultural land is allowed on the basis of ordinary rules and general restrictions. Ordinary rule considers land alienation without any permits and other limitations, and general restrictions consider land alienation only on the basis of the consent of co-owner of shared property. In case of agricultural land acquisition the lessee has the priority right to purchase the land. (Article 10). Alienation is restricted if the area after this action will be less than 5 hectare (Article 9).

20. The Law defines Tax sanctions if land has not been cultivated for 2 years UWSCG and for non-payment of land tax and non transmission to the other person in lease condition. In such cases the law does not directly state any type of penalty and only refers that in described cases shall be exercised the sanctions under the Tax legislation (Article 20).

G. The Law of Georgia on Property Rights on Land Plots under the Natural and Private Law Juridical Persons Ownership (Usage) 2007

21. The Law of Georgia on Property Rights on Land Plots under the Natural and Private Law Juridical Persons Ownership (Usage) (2007) regulates the legalization process of the land plots actually owned by natural and juridical persons and real estate standing on them. The aim of the Law is to cultivate the land fund at the state ownership and help the development of the land market by recognition of the property right (hereinafter referred as “the recognition of the property right”) of the natural, private law juridical persons and other organizational units of the land under their justified ownership (usage) as well as lands will fully occupied by them. The Law considers the land plots with the buildings and premises on them and land plots adjacent to the land plots under the official ownership as legalizable property. The Law sets limitations according to the type of the land plot (e.g. protected areas, etc.), to which the above-mentioned Law is not applied.

22. The Government of Georgia during the period from 2008 to 2010 has made some minor changes in the “**Law of Georgia on Recognition of the Property Ownership Rights Regarding the Land Plots Owned (Used) by Physical Persons or Legal entities; 2007**” through amendments introduced by parliament (on dates 21.03.2008; 27.06.2008; 23.10.2008; 05.12.2008; 27.03.2009; 31.07.2009; 03.11.2009; 25.12.2009; and 08.04.2010). Synopses of the changes are stated as follows:

23. The law governs legalization of land ownership rights on the land plots owned or used by the physical persons and legal entities.

24. The minor changes introduced in the law ensure more clear delimitation of responsibilities of different state organisations in the process of legalization of the land ownership rights.

25. The National Agency of Public Registry (NAPR) is assigned as a competent body for approving land ownership rights for the **Rightful Landowners** through the registration process.

26. The Property Recognition Commission (in each Rayon)) is assigned as a competent body for approving land ownership rights for the **Non-rightful Landowners** through reviewing the application documents, evaluating eligibility against the restriction lists given in the law and local landuse development plans. In case of positive decision and upon payment by the applicant of relevant fees the Commission issues certificate on ownership right.

27. According to the clause I of the law, the **Land in Rightful Ownership (or use)** is defined as a state owned agricultural or non-agricultural land plot with or without structures (completed, being constructed or demolished), regarding which the rightful ownership right of the physical or legal person has raised before the date when the current law came in force, as well as land plots occupied illegally before 1994 and recorded in the municipal technical archives.

28. The **Land Being in Non-rightful Ownership** - the state owned agricultural or non-agricultural land plot with residential house (completed or demolished) or supporting structures (completed) on it occupied by the physical or legal person without permission before the current law came in force and also land plot occupied without permission and adjacent to the land parcel rightfully owned or used by the person, taking into account that the illegally occupied land

parcel should be of less area than the legally owned adjacent land parcel and also land plot adjacent to the land parcel rightfully owned or used by the person, occupied without permission and with the supporting building situated on it and with the area less than the area of rightfully owned adjacent parcel and which is not used by the state for the moment of application, excluding restrictions provided in the p. a) of the clause 1 of current law.

29. **Clause 3.** Law regulation Sphere (5.12.2008 N 614)

1. This law defines main conditions of recognition of ownership on plot parcels occupied without permission and also the authorization of state units which represent the state in the process of ownership right recognition.
2. The rural and non-agricultural plot parcels occupied without permission do not subordinate the recognition of the ownership right:
 - a) Cattle scatter route;
 - b) Land of water state fund, except the plots that can be used and given into ownership according to the requirements stated by Georgian law on "Water";
 - c) Land of economic Forestry state fund, except the plots that are occupied by physical or legal entities that can be given into ownership according to the conclusion of the representative entity of state wood fund management and whose exclusion from state wood fund will not interfere the implementation of state wood fund management and protection;
 - d) Protected area, except protected landscape and multi-usage area;
 - e) Recreational park, square, etc., except recreational areas stated by the President of Georgia order N968 dated 29th November 2005 about "Georgian health resorts, health resort areas, mountainous-skiing centers and awarding recreational status to the Black Sea Coastal territory";
 - f) Historical, cultural, natural and cult-religious memorials;
 - g) Plot parcels of public usage (square, street, exit, road, side-walk, coastal), resting area (park, square, avenue), dendrological park and botanical garden;
 - h) If there is located reservoir, hydrotechnical structure and sanitary-protection zones of this unit;
 - i) If there is located public infrastructure entities (e.i. transport and underground utilities, water supply, sewerage, communication and electro-wiring);
 - j) Plot parcels for special destination (for self-defence and mobilization);
 - k) Plot parcels occupied by state owned entities, including the plots where state property is located do not subordinate to privatization in compliance with Georgian law about "Transferring the right of state property privatization, privatization and usage of local self-governing entity"; (3.11.2009 N 1941 to put in motion after 30 days of publishing)
 - l) Cemetery and pantheon;
 - m) Sanitary and defensive zones;
 - n) If it is destined for the exploitation and construction of main lines of gas and oil and overground and underground means connected with them.
3. (8.04.2010 N 2887) On the territory of Tbilisi, state owned or non-agricultural plot parcels occupied without permission subordinate to the right recognition in the main line protection zones III and IV defined by the decree of the President of Georgia. (8.04.2010 N 2887)

H. The Law of Georgia on Public Register (No820 –lis; December 19 of 2008)

30. The Law sets the rules, conditions and terms of registration of the real estate property right and rights and obligations of the subjects participating in the procedures of registration.

The aim of this Law is to declare and certify the property right to the real estate on the territory of Georgia by registering the property right with the Public Registry. The given Law defines the organizational-legal grounds of public registry procedure, rights and obligations of the Public Registry Agency, which is the Legal Entity of Public Law, acting under the management of the Ministry of Justice of Georgia, and undertaking the public registry procedures, terms and rates of its services, and procedures and terms for paying the fee, liberation from the fee and repayment of the paid fee. The Law describes the rules established for the Public Registry organization and functioning. Under the Law, the property right, hypothecs, right of building, usufruct, servitude, rent, sub-rent, lease, sub-lease, lending, leasing, all obligations in connection to the real estate property right and rights associated with the use and ownership envisaged by the Public Law are subject to registration (Article 11.1).

31. The given Law helps the successful process of expropriation and obtaining the strip of land designated for the construction works, as for the purpose of purchasing the real estate from its owner the land and real estate must be registered with the Public Registry if the agreement of purchase is to be legal. Under the effective legislation of Georgia, purchasing the private property is legal and the right of property is declared only if registered with the Public Registry.

I. The Law of Georgia on the Rules for Expropriation of Ownership for Necessary Public Need

32. The Law of Georgia of “Rules for Expropriation of Ownership for Necessary Public Need” (July, 23, 1999) specified the expropriation procedures, liabilities and implements the rules. The Rules for Expropriation of the ownership which has a possible usage in Georgia in some occasions including Road construction will be issued Regional (civil) Court verdict on the basis of the Presidential Decree.

33. According to the Constitution of Georgia the expropriation of the property in the process of construction of the magisterial motor road is permitted for necessary public need. The process of Expropriation is to be undertaken only by the Court Decision of the President of Georgia and corresponding instances. Expropriation is undertaking by means of compensation payment which is to be corresponding to market value and honest. The State of Georgia has a constitutional right to carry out acquisition property through Expropriation instead of payment of legislative compensation (Clause 21).

J. The Law of Georgia on Recognition of the Property Ownership Rights Regarding the Land Plots Owned (Used) by Physical Persons or Legal entities;

34. The Law of Georgia on “Recognition of the Property Ownership Rights Regarding the Land Plots Owned (Used) by Physical Persons or Legal entities”; (2007) regulates the legalization of the land plots and property factually owned by the physical or legal persons. The law considers as legalizable the land plots with situated residential houses on it or the land plots adjacent to the officially owned land parcels with the residential house situated on it. The Law provides a list of restrictions determining the type of land (e.g. protected areas etc.) for which the legalization rule is not applicable.

K. Procedural Civil Code of Georgia

35. The general courts of Georgia consider the cases according to the rules identified under the Procedural Civil Code of Georgia. The requirements of the procedural law are exercised

during the lawsuit, during implementation of separate procedural actions or execution of the court decision.

36. The Procedural Civil Code of Georgia also regulates those cases when determination of the defendant is impossible. This may be important for the Project in the cases when the landowner is not found and correspondingly ownership to his/her land parcel cannot be obtained in legally valid manner, i.e. it is impossible to enter corresponding agreement with the landowner or him/her cannot sign other type of document.

37. The above-listed laws and regulations give the possibility of applying the following three mechanisms for legal application of the property rights:

Obtaining the road right of way without expropriation through the payment of due compensation (on the basis of negotiations or a court decision) prior to commencement of the activities;

- (i) Expropriation which gives the possibility of obtaining permanent right to land and/or necessary road on the basis of Eminent Domain Law or a court decision through the payment of due compensation;
- (ii) Expropriation of private properties for urgent public necessity, which gives the possibility of obtaining permanent rights on land and/or necessary road for the purpose of national security or accident prevention. Expropriation is to be made on the basis of the Presidential Decree on Expropriation through the payment of due compensation to affected people.

38. If applied adequately the above listed mechanisms can ensure the appropriate consideration of lawful interests of all parties and the due observation of the existing legislations.

ANNEX B STANDARD RESETTLEMENT PLAN OUTLINE

- 1. LAR issues for the scheme**
This chapter describes the scheme activities and items requiring LAR; alternative options, if any, considered minimizing land acquisition and its effects; and why remaining effects are unavoidable.
- 2. Scope of land acquisition and resettlement**
This chapter describes the preparation of the impacts (who carried it out and when it was initiated) and provides a full assessment of each type of impact and a census of affected peoples as described in the Compensation Policy Framework and Procedural Guidelines (CPFPG). The chapter also includes a description of the methodology followed to determine unit-compensation rates for each affected item and subsidy/allowance.
- 3. Objectives, policy framework, and entitlements**
Based on the CPFPG, this chapter outlines the eligibility and compensation framework for the scheme.
- 4. Consultation, information dissemination and grievance redress participation**
This chapter summarizes procedures for redress of grievances by people affected described in CPFPG and describes the consultation/participation process and grievance redress that occurred in the subproject at hand.
- 5. Compensation, relocation, and income restoration**
This chapter outlines the income restoration measures to be implemented.
- 6. Institutional framework**
This chapter outlines the institutional arrangements for the scheme based on this CPFPG. It includes the following issues: responsibilities for main tasks and for planning, negotiating, consulting, approving, coordinating, implementing, financing, monitoring, and evaluating land acquisition and resettlement.
- 7. Resettlement budget and financing**
This chapter provides the unit compensation rate for each affected item and assesses the LAR budget for the scheme. The LAR budget will include land acquisition and eventual land acquisition costs, amounts due for crop compensation and for the subsidies and allowances, monitoring and evaluation costs, and administrative costs and will be adjusted for inflation and applicable taxes.
- 8. Implementation schedule**
This chapter provides a time schedule showing the LAR process and linking LAR tasks with civil works implementation.
- 9. Monitoring and evaluation**
This chapter specifies arrangements for routine and independent monitoring and evaluation activities.

ANNEX C SHORT RESETTLEMENT PLAN OUTLINE

A. Introduction

1. Brief description of the Project (provide map of Project area/s)
2. Types of impacts (summary description of acquisition and other assets)

B. Description of Affected Persons

1. Description of APs including their spatial distribution
2. Gender-disaggregated socioeconomic characteristics of Project AFs
 - Total number of families affected by the Project
 - Employment types and major sources of income
 - Tenure status (land and house/structures)
 - Affected land and assets: areas, types of structures, and conditions
3. Categories and number of affected households by type and degree of impacts
 - Affected households with loss of entire holdings are required to relocate
 - Affected households with loss of partial holdings and not required to relocate
 - Tenants, landless laborers, informal settlers, etc. affected by the Project
 - Affected households with loss of incomes and employment

C. Compensation and Policy Entitlement Criteria

1. Elements of compensation policy: objectives and entitlement criteria
2. Compensation entitlements for each category of APs
3. Other assistance (transport allowance, rehabilitation assistance, etc.)

D. Cost Estimates and Budget

1. Aggregate costs for each type of asset loss and implementation arrangements

E. Public Participation, Consultation, and Grievance Resolution

1. Consultation with stakeholders at the different stages of the Project
2. Existing and Project-specific mechanisms for grievance resolution procedures

F. Organizational Set-up

1. Organizational structure of the unit/division within the local government at the Local government level that is responsible for management, supervision, and implementation of LAR

G. Implementation Schedule

1. Implementation schedule for land acquisition and compensation for each component of the Project, including description of different activities and their sequence
2. Timetable for implementation of different land/asset acquisition activities in relation to the Project

L. Compensation Eligibility and Entitlements for the Project