



Accelerating Malawi's Economic  
Growth



Government of Malawi

# Southern African Trade and Transport Facilitation Programme

World Bank

## Resettlement Management Framework

**Prepared by:**

Roads Authority  
Environment Management Unit  
(EMU)

**In coordination with:**

World Bank Safeguard Team

September 2014

---

This **Resettlement Management Framework (RMF)** was developed by the Environment Management Unit (EMU) of the Roads Authority (RA) of Malawi in coordination with the World Bank's Safeguards Specialists, during the Southern Africa Trade and Transport Facilitation Programme (SATTFP) preparation, in order to comply with the Bank's Involuntary Resettlement Policy (OP/BP 4.12). This instrument is part of the Project Operation Manual and should be applied during the Programme implementation.

September 2014

# Table of Contents

<b>Table of Contents .....</b>	<b>iii</b>
<b>Abbreviations.....</b>	<b>v</b>
<b>Glossary.....</b>	<b>vii</b>
<b>Acknowledgements.....</b>	<b>Error! Bookmark not defined.</b>
<b>Chapter 1: Introduction.....</b>	<b>1</b>
1.1 Background .....	1
1.2 Justification .....	1
1.3 Objective of the Framework .....	2
1.4 Scope of the Framework .....	2
<b>Chapter 2: The Programme .....</b>	<b>4</b>
2.1 Background .....	4
2.1.1 Regional Level.....	4
2.1.2 The North – South Corridor.....	5
2.2 Programme Description .....	7
2.2.1 Components .....	8
2.2.2 Beneficiaries .....	9
2.3 Institutional arrangements.....	9
<b>Chapter 3: Diagnosis of Legal/Institutional Framework and the Bank’s Safeguard Policy .....</b>	<b>10</b>
3.1 Land Uses in Malawi .....	10
3.1.1 Land Tenure Regimes.....	10
3.1.2 Land Acquisition Procedures.....	11
3.2 Policy and Legal framework on resettlement.....	12
3.3 World Bank Involuntary Resettlement Policy (OP/BP 4.12).....	14
3.4 Gap analysis between national law and the Bank’s Policy .....	14
3.5 Addressing Policy Gaps in Implementation .....	17
<b>Chapter 4: Potential Environmental and Social impacts of Resettlements .....</b>	<b>19</b>
<b>Chapter 5: Principles and Concepts .....</b>	<b>22</b>
5.1 Principles .....	22
5.2 Involuntary Resettlement .....	22
5.2.1 Type of involuntary resettlement .....	22
5.2.2 Classification of involuntary resettlement .....	23
5.3 Project Affected People .....	24
5.3.1 Type of PAPs.....	24
5.3.2 Legal status of the PAPs .....	26
5.4 Type of Compensation .....	29
<b>Chapter 6: Resettlement management Instruments and internal Tools .....</b>	<b>31</b>
6.1 Instruments required for the resettlement/compensation safeguard .....	31
6.1.1 Resettlement/Compensation Action Plan (RAP) .....	31
6.1.2 Abbreviate Resettlement/Compensation Action Plan (ARAP).....	32
6.2 Considerations to prepare the RAP/ARAP .....	32
6.2.1 Socioeconomic Study .....	32
6.2.2 Cut-off Date .....	33
6.2.3 Budget for RAP/ARAP implementation.....	33
6.3 Methodology of valuing affected land and assets .....	34
6.3.1 Compensation for land.....	34
6.3.2 Compensation for crops.....	35
6.3.3 Compensation for building and structures .....	36

6.3.4	Compensation for sacred sites .....	36
6.3.5	Compensation for vegetables, gardens and beehives .....	36
6.3.6	Compensation for horticultural, floricultural and fruits trees .....	37
6.4	Institutional arrangement for the RAP/ARAP implementation.....	37
6.5	Internal tools for the resettlement/compensation management .....	39
6.5.1	Resettlement/Compensation Screening Form (RSF) .....	39
6.5.2	Resettlement/Compensation Monitoring Report (RMR) .....	39
6.5.3	Resettlement/Compensation Final Report (RFR) .....	39
<b>Chapter 7: Main aspects during the Resettlement/Compensation .....</b>		<b>40</b>
7.1	Public Participation .....	40
7.2	Notification .....	41
7.3	Documentation of holdings and assets .....	41
7.4	Agreement on compensation and preparation of contracts .....	41
7.5	Grievance Mechanism .....	41
7.6	Monitoring and Evaluation .....	42
<b>Chapter 8: Resettlement/compensation management.....</b>		<b>44</b>
8.1	Environmental and social Project Cycle .....	44
8.2	Environmental and social stakeholders: Role and responsibilities.....	44
8.3	Resettlement/Compensation Management along the Project Cycle.....	45
8.3.1	Stage 1: Preliminary assessment.....	45
8.3.2	Stage 2: Assessment .....	46
8.3.3	Stage 3: Bid process and legal agreement.....	46
8.3.4	Stage 4: RAP/ARAP implementation .....	46
8.3.5	Stage 5: Construction.....	46
<b>References .....</b>		<b>47</b>
<b>ANNEXES.....</b>		<b>48</b>
<b>Annex 1: Consultation process and list of participants .....</b>		<b>50</b>
<b>Annex 2: Tools for Resettlement/Compensation Management.....</b>		<b>52</b>
2.1	Resettlement/Compensation Screening Form .....	52
2.2	Resettlement/Compensation Monitoring Report.....	53
2.3	Resettlement/Compensation Final Report.....	54
<b>Annex 3: Resettlement/Compensation Management Instruments .....</b>		<b>56</b>
3.1	Resettlement/Compensation Action Plan (RAP) .....	56
3.2	Abbreviated Resettlement/Compensation Action Plan (ARAP) .....	60

## Abbreviations

ARAP	Abbreviated Resettlement/Compensation Action Plan
ADC	Area Development Committee
AEC	Area Executive Commissioner
AICD	Africa Infrastructure Country Diagnostic
ARAP	Abbreviated Resettlement Action Plan
COMESA	Common Market for Eastern and Southern Africa
CUCM	Customs Union and Common Market
DC	District Commissioner.
DEC	District Executive Committee.
DESC	District Environmental Sub - Committee
DIA	Direct Influence Area
DLO	District Lands Officer.
DP	Displaced Person.
DPD	Director of Planning and Development.
EAC	East African Community
EDO	Environmental District Officer.
EMU	Environmental Management Unit of the Roads Authority
ESIA	Environmental and Social Impact Assessment
ESMF	Environmental and Social Management Framework
ESMP	Environmental and Social Management Plan
ESSF	Environmental and Social Screening Form
GoM	Government of Malawi.
IIA	Indirect Influence Area
MGDS	Malawi Growth and Development Strategy.
MEPD	Ministry of Economic Planning and Development.
NGO	No Government Organization
PAP	Project Affected People.
RAP	Resettlement/Compensation Action Plan.
RMF	Resettlement Management Framework.
RFR	Resettlement Final Report
RMR	Resettlement Monitoring Report
SADC	Southern African Development Community (SADC)
WB	World Bank



## Glossary

- **Census:** means a field survey carried out to identify and determined the number of project affected persons or displaced persons in accordance with procedures including eligibility criteria for compensation.
- **Compensation:** means the payment in kind, cash or other assets given in exchange for the taking of land or impact on assets including fixed assets and livelihoods thereon, in whole or in part.
- **Cut – off – date:** means date of commencement of the census of project affected people within the project area boundaries.
- **Displaced persons:** means persons who, for reasons of the involuntary taking or voluntary contribution of their land and other assets under the project result in direct economic and or social adverse impacts, regardless of whether or not the said Displaced Persons physically relocate.:
- **Involuntary Resettlement:** means the involuntary taking of land or assets resulting in direct or indirect economic and social impacts caused by : loss of benefits from use of such land; relocation or loss of shelter; loss of assets or access to assets; or loss of income sources or means of livelihood, whether or not the displaced person (s) has moved to another location.
- **Involuntary Land Acquisition:** means the taking of land by government or other government agencies for compensation for purposes of a public project against the will of the landowner in exchange of compensation. The landowner may be left with the right to negotiate the amount of compensation proposed. This includes land or assets for which the owner enjoys uncontested legal and/or customary rights.
- **Land:** refers to agricultural and non-agricultural land and any structures thereon whether temporary or permanent and which may be required for the project.
- **Land acquisition:** means the taking of or alienation of land, buildings or other assets thereon for purposes of a Project.
- **Rehabilitation Assistance:** means the provision of development assistance in addition to compensation such as land preparation, credit facilities, training, or job opportunities, needed to enable project affected persons to improve their living standards, income earning capacity and production levels, or at least maintain them at pre-project levels.
- **Project affected person(s)** means person(s) who are in some way impacted as a result of project activities. This can include acquisition of land or other assets, or impacts on assets, including livelihood activities.
- **Replacement cost:** means replacement of assets with an amount sufficient to replace lost assets and cover related transaction costs. In terms of land, this may be categorized as follows.
- **Replacement cost for land:** means the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected

land, plus the costs of preparing the land to levels similar to those of the affected land; and any registration and transfer taxes.

- **Replacement cost for houses and other structures:** means the prevailing cost of replacing affected structures, in an area and quality similar to or better than that of the affected structures. Such costs shall also include transporting building materials to the construction site; labor and contractors' fees; and registration costs.
- **Voluntary Land Contribution:** means a process by which an individual or communal owner agree to provide land for project-related activities. Voluntary contribution is an act of informed consent, made with prior knowledge of other options available and their consequences, including the right not to contribute or transfer the land. It must be obtained without undue coercion or duress. Voluntary Land Contribution may be of two types. These are voluntary land contribution for compensation and voluntary land contribution without compensation.



# Chapter 1: Introduction

## 1.1 Background

The Southern Africa Trade and Transport Facilitation Programme (SATTFP) Malawi originated from the objectives of the Tripartite.<sup>1</sup> The Heads of State and Government of the COMESA/EAC/SADC Tripartite met on June 12, 2011. The summit represented the official launch of negotiations with all twenty-six participating countries on the Tripartite Free Trade Area (FTA). It was also agreed that the integration process will be anchored on three pillars: (a) market integration to stimulate intra-regional trade based on the Tripartite FTA; (b) infrastructure development to enhance connectivity and reduce costs of doing business across borders; and (c) industrial development.

The SATTFP Program in Malawi is supported by the recommendations of the Africa Infrastructure Country Diagnostic (AICD)<sup>2</sup> and the World Bank's New Africa Strategy.<sup>3</sup> The AICD highlights that Africa's infrastructure networks increasingly lag behind those of other developing countries and are characterized by missing regional links and stagnant household access. It notes that regional integration can contribute significantly to reducing infrastructure costs, by allowing countries to capture scale economies and manage regional public goods effectively

In this context, in order to ensure the compliance of the Bank's Involuntary Resettlement Policy (OP/BP 4.12), the Road Authority (RA) with the support and coordination of the Bank's safeguards specialists, developed this **Resettlement Management Framework (RMF)**, based on the Malawi's law and the World Bank Involuntary Resettlement Policy.

In regards of consultations, this instrument was presented and socialized on September 24, 2014, with a wide range of stakeholders, including national and local governments, and NGOs. A number of topics discussed are related to the impact of the project such as impact on land, livelihood, and gender. A summary of these consultations, issues raised and possible solutions are summarized in **Annex 1**. Finally, this RMF was published in the RA website and the World Bank InfoShop in compliance with the Bank's disclosure policy.

## 1.2 Justification

The SATTFP consist of a number of components and subprojects. The project at this stage includes rehabilitation of a number of roads, border crossing, and improvement in the road safety. The design of some of these components, such as some of the roads, are ready, which means a Resettlement Action Plan (RAP) for those sections of the roads will be prepared in line with this RMF by appraisal. However the design for some of the border crossing and the types of safety measures are not complete. In addition, there will be future road projects. As a result, this RMF was prepared to guide not only the preparation of the RAPs for the sections for which the design are not ready but to also guide the future investment in the road sector. This framework constitutes

---

<sup>1</sup> The Tripartite is an umbrella organization consisting of three of Africa's RECs: the EAC, COMESA and SADC, established with the objective of accelerating economic integration.

<sup>2</sup> AFD/The World Bank Group (2010) *Africa's Infrastructure: A Time for Transformation*. Washington DC.

<sup>3</sup> The World Bank Group (2011b), *Africa's Future and the World Bank's Support to It*. Washington D.C.

a policy-guiding tool in addressing land acquisition and associated compensations for new sites as well as encroachers of the road reserve.

### 1.3 Objective of the Framework

The purpose of the RMF is to establish resettlement and compensation principles, organizational arrangements, and design criteria to be applied by the RA, to ensure that project affected people (PAPs) are meaningfully consulted, have participated in the planning process, and are adequately compensated to ensure that their livelihood is restored or improved and that the process has been fair and transparent.

Among others, the specific objectives of the RMF are to:

- Provide legal and institutional framework and analyze the gaps between the national law and the Bank's OP/BP 4.12 in order to identify requirements and measures to bridge gaps between them;
- Present the main principles, scope, and concepts governing resettlement/compensation issues;
- Design internal tools for the resettlement/compensation management;
- Describe the process for preparing and approving resettlement/compensations plans;
- Identify methods of valuing affected assets;
- Describe grievance redress mechanisms;
- Describe arrangements for funding resettlement and compensation, including the preparation and review of cost estimates, the flow of funds, and contingency arrangements;
- Describe mechanisms for consultations with and participation of displaced persons in planning, implementation, and monitoring; and
- Make arrangements for monitoring by RA and, if required, by independent monitors.

### 1.4 Scope of the Framework

Main potential users of this manual are staff involved in the planning and management of the Programme. These include staff of the RA and the Environment Management Unit (EMU), District Commissioners (DC), District Executive Committees (DEC), staff of local councils, Area Development Committees (ADC) and Area Executive Committees (AEC). Consultants hired to conduct project specific environmental and resettlement studies shall also use the framework to inform their studies.

The document is organized into eight (8) chapters: **Chapter One** provides the background information, objectives and scope of the RMF; **Chapter Two** provides information about the SATTFP, description and the components; **Chapter Three** provides the relevant Malawi's social/land policies and legislation applicable to the SATTFP, the institutional framework and the Bank's environmental and social Safeguards Policies. This chapter includes a gap analysis between the national law and the Bank's OP/BP 4.12 Safeguard Policy; **Chapter Four** includes the main social impacts for the resettlement; **Chapter Five** provides the main principles and concepts about the resettlement/compensation safeguards, including type and classification of the involuntary resettlement, type and legal status of the project affected people (PAPs), type of compensation and Replacement cost; **Chapter Six** provides the tools, methodologies, the guidelines for the studies required for the resettlement/compensation management, the main considerations to prepare the resettlement/compensation instruments and the methodologies of valuing affected land and assets; **Chapter Seven** provides the main resettlement/compensation activities that should be developed during the Plan implementation including public participation, notification, documentation,

agreement, and grievance mechanism; and **Chapter Eight** provides the internal process of the resettlement/compensation management in the “project cycle”.

## Chapter 2: The Programme

### 2.1 Background

#### 2.1.1 Regional Level

The Eastern and Southern Africa region is highly diverse but with considerable potential for significant gains from deeper integration. The countries of the region range from South Africa; the continent's most advanced economy, with advanced manufacturing and service industries, and superior logistic services, to some of the smallest and poorest, *inter alia* Swaziland, Malawi, and the Democratic Republic of the Congo. In addition, the region contains a number of countries, such as Zambia, Malawi, Burundi, Lesotho, and Rwanda, with untapped agricultural potential and natural resources, and a labor endowment that is trained, relatively inexpensive, and well-positioned to compete globally.<sup>4</sup>

The region has enjoyed above global average rates of economic growth over the period 2000-2008 driven by increasing global demand for primary commodities, but complemented by growing inter-regional trade, albeit from a low base. The region's trade with the rest of the world increased significantly, tripling between 2000 and 2011 from US\$50 billion to US\$260 billion. However, this value falls to about US\$60 billion, if South Africa is excluded.<sup>5</sup> Exports from the region include copper, other minerals and agricultural commodities from South Africa, DRC, Zambia, Zimbabwe and Malawi, while imports include chemicals, mining parts and equipment, general consumer goods, etc.

Despite this growth, intra-regional trade remains modest: Regional trade in Southern Africa amounted to only 13 percent of total trade in 2011, and the region compares poorly in this respect with other world regions. As examples, regional trade in Europe reached 70 percent of total trade in 2011; in North America, 40 percent; and in Association of Southeast Asian Nations (ASEAN), 30 percent.<sup>6</sup> Trade with South Africa accounts for more than half of total intra-regional trade: For example, 60 percent of Zambia's regional exports and 50 percent of its regional imports are with South Africa. Over 90 percent of Malawi's regional imports are from South Africa, while South Africa is a destination for only 10 percent of Malawi's exports.

The countries of the region face a number of common problems: the region includes a large number of relatively small states, a number of which are landlocked; it is geographically remote from both the more mature markets of Europe, America and Japan, and the emerging markets of China, India, Indonesia and Brazil; a number of countries have high rates of unemployment and poverty, particularly among the low-skilled, a large informal sector, and an overreliance on primary commodities; and from a global perspective, the region represents a number of disparate and relatively small markets, whose aggregation is complicated by physical and institutional barriers, such as distance, the poor quality of the infrastructure, and continued intra-regional policy and regulatory discrepancies, despite a number of earlier initiatives.<sup>7</sup>

---

<sup>4</sup> The World Bank (2011a), *Harnessing Regional Integration for Trade and Growth in Southern Africa*.

<sup>5</sup> International Monetary Fund (2011), *Direction of Trade Statistics*, (based on goods value exports US MM)

<sup>6</sup> International Trade Center (2012) Trade Map, International Trade Statistics Database.

<sup>7</sup> The East African Community (EAC) Customs Union and Common Market, the Common Market for Eastern and Southern Africa (COMESA) Free Trade Area, and the Southern African Development Community (SADC) were all designed and established, to a great extent, to facilitate regional trade.

Improving the regional transport network is a necessary condition for both competitiveness and regional and global economic integration. High transport prices/costs, including time, are a major obstacle to increasing trade and economic growth: Amjadi and Yeats (1995)<sup>8</sup> concluded that, in Africa, transport costs represent a higher trade barrier than import tariffs and trade restrictions. Freund and Rocha (2011)<sup>9</sup> report an inverse correlation between inland travel time and export performance, with a one day decline in the former leading to a seven percent increase in the latter. Recent research points to predictability as being, at times, even more important for logistic performance. The delivery of exports in Eastern and Southern Africa is twice as unpredictable as in an average emerging country, measured by standard deviation from mean clearance times. The cost of each additional day of delay is estimated to be as much as US\$ 200-400, adding to high transport costs/prices.<sup>10</sup>

### 2.1.2 The North – South Corridor

The broader North-South Corridor (NSC) extends some 3,900 km from Dar es Salaam in Tanzania to Durban in South Africa. The corridor encompasses both road and rail networks, and maritime and inland water ports, and is a very important strategic trade route. The so-called broader NSC actually comprises two sub-corridors, the Dar es Salaam Corridor (more commonly known as the Dar Corridor), connecting Malawi, Zambia and the DRC, and the traditional North – South Corridor, from Durban to DRC, Zambia, Zimbabwe, Botswana, Malawi, and northern Mozambique. The former extends for about 1,900 km from Dar es Salaam in Tanzania to Kapiri Moshi in Zambia, and includes branches linking to the neighboring countries of the DRC, and Malawi; whilst the latter runs from Durban in South Africa to the DRC, linking Zambia, Zimbabwe, Botswana, Malawi and northern Mozambique.

The region appears relatively well endowed with physically continuous road and rail networks, linked to maritime and inland ports. However, there are major deficiencies in all the surface transport modes: the infrastructure is frequently poor or incomplete, inadequately maintained, or there are limitations in organizations, management, and coordination, particularly at the ports and border crossing operations. Overall, the core regional road network is in fair condition, but some sections are in poor or very poor condition, notably in Zimbabwe, Malawi, Zambia, Malawi, and Mozambique.<sup>11</sup> Railway performance is poor and unreliable, and as a result, 80 percent of all freight on the corridor is moved by road transport. Transport costs along the corridor are some of the highest in the world, requiring almost seven days for the 2,000 km trip by road (carrying one Twenty Foot Equivalent Unit [TEU]) from Dar es Salaam port to Lusaka in Zambia, and costing US\$ 5,000.<sup>12</sup> The figure that follows presents the transport corridors for Malawi.

---

<sup>8</sup> Amajadi A., & Yeats A.J. (1995) *Have Transport Costs Contributed to the Relative Decline of Sub-Saharan African Exports*, World Bank Policy Research Working Paper 1559.

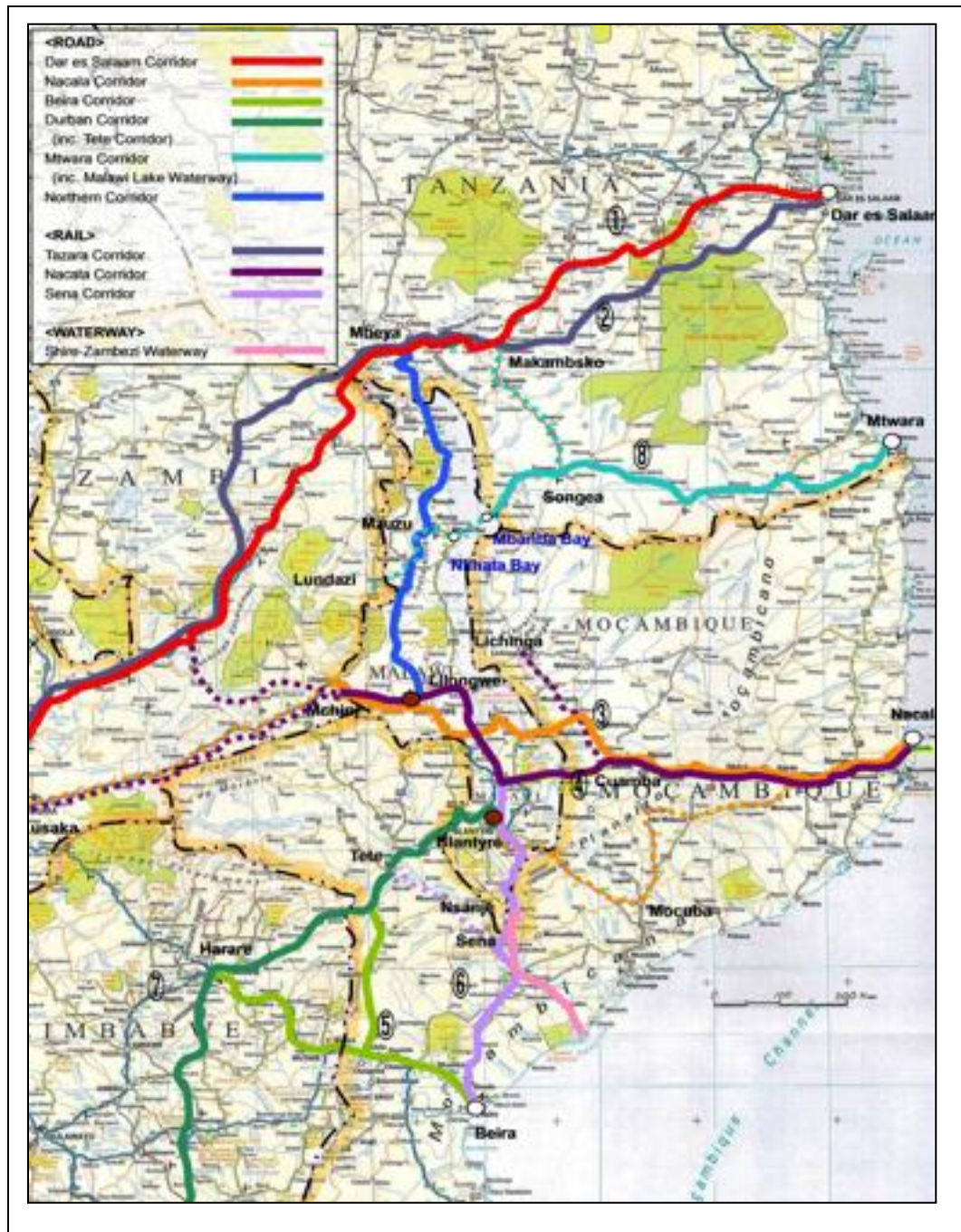
<sup>9</sup> Freund, C., & Rocha, N. (2011) What Constrains Africa's Exports? *The World Bank Economic Review*, Volume 25, Number 3, pages 361-386.

<sup>10</sup> Arvis, J.F., G. Raballand and J.F. Marteau (2010) *The cost of being landlocked: logistics costs and supply chain reliability*, The World Bank Group.

<sup>11</sup> Nathan Associates (2011), *Definition and Investment Strategy for a Core Strategic Transport Network for Eastern and Southern Africa*. A study funded by PPIAF.

<sup>12</sup> World Bank (2012), *Op Cit*.

Figure No. 1: Malawi Transport Corridors



Source: Road Authority

There are main international sea ports at the end points of both rail and road networks on the NSC, with the Port of Dar es Salaam in the north and the Port of Durban in the south. Durban and Dar are the largest ports on the corridor and the only ones with sufficient volumes to justify direct calls by major shipping lines. Secondary ports, such as Nacala and Beira located on branches off the corridor, receive calls from feeder vessels coming from hub ports in the area, particularly Durban. Beira Port is constrained by the absence of a direct rail connection and limited depth of the port. Whilst Nacala Port is situated in a deep-water bay offering natural protection for very large vessels, it currently remains a relatively small feeder port.



A further major impediment to trade flows on the corridor are the border crossings. The NSC is served by main border posts at Kasumulu/Songwe, Tunduma/Nakonde, Kasumbalesa/DRC, Chirundu, Beitbridge, Mchinji/Mwame, among others. A recent analysis of the road corridor from Durban to Lubumbashi in the DRC revealed that border posts were responsible for 15 percent of the total monetary costs (comprising one percent, one percent and 13 percent for Beit bridge, Chirundu and Kasumbalesa, respectively) and 37 percent of the total travel time (comprising 13 percent, 11 percent and 13 percent for Beitbridge, Chirundu and Kasumbalesa, respectively) for the movement of a consignment.<sup>13</sup> The analysis also revealed mean processing times of 39 hours at Chirundu, 48 hours at Beit Bridge, and 49 hours at Kasumbalesa.

Road transport along transit corridors has been identified as a major factor in the spread of Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome (HIV/AIDS). Transport workers, their spouses, and their sexual partners have long been identified as vulnerable groups at high risk of HIV/AIDS.<sup>14</sup> This finding reflects that: (a) the former are often absent from home for prolonged periods, increasing the likelihood of unsafe sexual activity; (b) there is often a lack of knowledge among long-distance truck drivers as to risky and safe behavior; (c) there is often higher than average level and frequency of alcohol consumption among this group, increasing the incidence of risky behavior; and (d) the increased mobility can itself facilitate HIV transmission from areas of high prevalence to areas of low prevalence but high vulnerability, both nationally, and across borders.

Malawi, along with other countries in the region, has a nationally adopted HIV/AIDS program. Awareness of the risk of HIV/AIDS has been increased through education initiatives in the schools. The incidence of HIV among adults in Malawi has declined slightly from an estimated 14.5% percent in 2005 to 10.8% percent in 2012. Nevertheless, activities addressing the risks of HIV/AIDS transmission among truck drivers and surrounding communities along transit corridors have not been implemented in a systematic manner. Empirical evidence has revealed that commercial sex workers and long-distance truck drivers represent one of the most vulnerable population groups in Malawi. In addition, National AIDs Commission of Malawi, the national body leading the multi-sectoral response to the HIV/AIDS epidemic, has confirmed an acute need for improved HIV mitigation activities in the transport sector.

Similarly, fatalities and injuries from road traffic crashes represent a significant and growing economic and social cost in Africa. Road Safety is both a development and a public health priority in low and middle-income countries in Africa. Road crashes disproportionately harm the poor, plunging families into poverty, and forming a substantial drain on a country's resources. Road traffic crash mortality rates were nearly five times higher in Africa in 2002 (averaging 28.3 fatalities per 100,000 head of population) than in the best performing Western European countries (approximately six fatalities per 100,000 head of population in the United Kingdom, The Netherlands, and Sweden).<sup>15</sup>

## 2.2 Programme Description

The Southern Africa Trade and Transport Facilitation Programme (SATTFP) is a regional, multi-sector, and multi-phase project intended to further facilitate trade integration in the region by

---

<sup>13</sup> Nathan Associates (2011), *Definition and Investment Strategy for a Core Strategic Transport Network for Eastern and Southern Africa*. A study funded by PPIAF.

<sup>14</sup> See *inter alia* The World Bank Group (2008), *Lessons Learned from Mainstreaming HIV/AIDS in Transport Sector Projects in Sub-Saharan Africa*. Washington D.C, The World Bank Group (2009) *Transport against HIV/AIDS: Synthesis of Experience and Best Practice Guidelines*. Transport Paper 25.

<sup>15</sup> World Health Organization/The World Bank Group (2004) *World report on road traffic injury prevention*.

contributing to the alleviation of institutional, legal, policy, and road infrastructure constraints along the constituent parts of the North South Corridor (NSC). The Project design involves the identification of institutional, policy and social priorities for the corridor as a whole then, based on the identified framework, the design, and implementation of suitable interventions in sequence at a national level. The first phase will focus on the Northern Corridor between Songwe Boarder and the Capital City of Malawi, Lilongwe given the issues related to the transport of goods from the port of Dar es Salaam to Lilongwe and further to Zambia, DRC and South Africa.

### 2.2.1 Components

#### **Component 1: Improving the physical infrastructure**

The first phase will focus on the rehabilitation of the section of the corridor between Songwe/Kasumulu Border and Karonga Town Assembly. This is a section of the Malawi-Zambia highway (TANZAM). This section is located in Karonga District of the Northern Region of Malawi and is 45 km long. The estimated cost of this sub-component is US\$ 30,234,991.50.

The second phase focuses on rehabilitation of the Bwengu-Chiweta Section. This is located in Rumphi District of the Northern Region of Malawi. The road stretch is 60 km and is estimated at cost of US\$ 40,313,322.00.

The third phase is the rehabilitation of the Kasungu-Lilongwe section of the corridor. This part is located in Lilongwe and Kasungu districts in the central part of Malawi. The stretch is 150 km long and will cost US\$ 102,768,750.00.

The responsibility of constructing the One-Stop Boarder Posts for Songwe/Kasumulu, Dedza and Mwanza fall out of the jurisdiction of the Roads Authority.

**Component 2: Mitigating the social costs.** The second component also has two sub-components:

- (a) ***Road Safety Initiatives on the Corridor*** include: (a) the undertaking of a Road Safety Audit to identify accident “black spots” along the Malawi portion of the corridor, the preliminary design of specific interventions to address them; (b) the undertaking of a management capacity review for the corridor and the identification of a pilot ‘safe corridor’ initiative; and (c) the preparation of detailed designs, technical assistance, and implementation of measures.<sup>16</sup> The estimated cost of this sub-component is US\$7.0 million; and
- (b) ***HIV/AIDS Initiatives on the Corridor.*** This sub-component will refurbish and extend priority lower level health centers, serving the Corridor, and the population in the hinterland. It will also include the purchase of essential equipment, such as CD 4 count machines, and small incinerators for clinical waste, and provide technical assistance to develop the capacity of the staff in the local health centers, both in HIV/AIDS awareness, counseling and testing, but also the appropriate disposal of medical waste.

**Component 3: Improving Trade Facilitation.** a) National Single Window facility; b) upgrade and modernization of border post facilities.

---

<sup>16</sup> A grant has been obtained from the Global Road Safety Facility to cover the work in parts (a) and (b). This component will focus on the detailed design and implementation of the measures.



**Component 4: Implementation Assistance and Institutional Support** This component will provide necessary project management and implementation assistance to the implementation unit(s), together with capacity building and training, and other priority studies. The capacity building elements reflected here are those relevant to environment and social management sector.

- (a) The procurement of consultants to supervise the civil works and monitor the implementation of the Environmental and Social Management Plan (ESMP);
- (b) The procurement of consultants (as necessary) to build/add capacity in certain defined areas in RA, MoTPW and to assist in the implementation of the project components; and
- (c) The procurement of consultants to prepare the detailed design, Environmental and Social Impact Assessment (ESIA), supervision of the civil works and ESMP, and establishment of OSBP at Dedza and Mwanza Border Posts.

### **2.2.2 Beneficiaries**

The beneficiaries of the project will encompass road users, passenger and freight, and their families, residents along the road corridor, tradable sectors of the economy and ultimately, consumers and producers both inside and outside the sub-region.

### **2.3 Institutional arrangements**

The project proponent and the executing agency of the Programme is the Roads Authority (RA) who will be assisted by the Environment Management Unit (EMU), and by design and supervision consultants and other sector consultants to engage the Contractor and Sub-contractors in the implementation of the projects. To minimize potential environmental and social negative impacts, the projects will require the support of various institutions in the project area. In this instrument presents the actions and responsibilities for the ESMF implementation through the “project cycle”.

In regards of the reporting arrangements, RA’s Environment Management Unit (EMU) or Consultant's appointee to deal with environmental management will cooperate with other experts such as District Land Officers, District Valuers, Community Development Officers and District Environmental Officers to provide the Environmental and Social Planner at the RA with environmental reports of the project implementation as part of the progress reports and annual environmental monitoring reports.

## **Chapter 3: Diagnosis of Legal/Institutional Framework and the Bank's Safeguard Policy**

### **3.1 Land Uses in Malawi**

The country has an estimated population of 14 million people against land size of about 9.5 million hectares. The average population density is 139 persons per square kilometre. About 85% of the population live in rural areas and depend on small holder farming while only 15% of the population live in towns where as much as 75% of the urban population live in poor peri-urban and informal settlements

Agriculture is the main stay of Malawi's economy, accounting about 40% of gross domestic product and about 85% of export revenue. Smallholder farming occupies about 4.5 million hectares while estates occupy about 1.2 million hectares of rural land. Some studies indicate that as much as 55% of the smallholder farmers have less than half of a hectare of cultivable land. As a result of this constraint, most rural households face difficulties in producing enough output for food and cash throughout the year. Poverty levels are estimated at 60% and 65% of populations in rural and urban areas respectively.

#### **3.1.1 Land Tenure Regimes**

Malawi embraces the capitalistic ideals with regard to land ownership. There are five distinct land tenure classes existing in Malawi. The description and extents of the classes of land in Malawi are:

##### **i. Customary Land**

This is land held in trust for all people of Malawi by the State President, who delegates his authority to traditional chiefs. This constitutes about 75% of the total 9.5 million hectares of the land. The land is commonly held and distributed to the people by local chiefs. Although each person has recognised ownership to a piece of land, he or she cannot trade on it as the land can be reassigned to other people in case the chiefs deem it fit. A coherent system in the distribution of land exists in both patrilineal and matrilineal societies. This system has allowed smallholder agriculture to survive without access to bank loans.

##### **ii. Leasehold Land**

This is part of private land that is leased by individuals or other legal residents. The lease period varies according to type of use that someone has applied for. Currently these fall into three groups of 21 years old leases for agricultural uses, 33 to 99 years old for property and infrastructure developments, and over 99 year lease for those who would wish to sublease to tenants of 99 years. About 8% of the land in Malawi is in this category.

##### **iii. Registered Land**

This is grouped into two classes called customary registered and adjudicated land. The first exists in Lilongwe District only. This land is registered in the family leader name with all family names in that area registered including the size of their land holdings. Their implicit

freehold status as the families can trade in its holding by leasing out or selling bits of it with groups consent. Loans can therefore be obtained on strength of their certificates to the land

The second class is a simplified leasehold system, which allows owners to have certificates for their pieces of land based on survey and registration number. This is common in the urban areas, but has been applied in rural areas for agricultural, commercial and residential uses.

#### **iv. Freehold Land**

This is land, which has been granted to persons for perpetuity. The government has no specific control on transactions except on planning permission on uses. This lease is now limited to Malawian citizenship only. It is difficult to enforce conservation measures on this land because of the exclusivity, which the persons enjoy, particularly some owners who live overseas.

#### **v. Government Land**

The is land which is owned and used by government for public utilities, schools, hospitals, government offices and other properties, markets, government farms and other public goods throughout the country.

#### **vi. Public Land**

Land managed by agencies of the government and traditional leaders in trusts for the people of Malawi, openly used or accessible to the public at large. This includes catchment areas, protected forest reserves, national parks, game reserves, dambos, community forests, riverines, flood plains, wetlands, military sites and others.

### **3.1.2 Land Acquisition Procedures**

Upon identification of the specific land area to be acquired, the village development committee will initiate negotiations with the occupier(s) of customary land, registered proprietor or their representatives. Inter-department cooperation will be utilized wherever necessary to tap on the expertise and experiences of the various stakeholder institutions:

- i. The District Commissioner in consultations with the line district sector line officials prepare actions plans for implementation of land acquisition and resettlement that comply with the provisions of the framework; and
- ii. Affected persons are then served with a notice with a clear explanation of the purpose of the acquisition, the area of land required and the owners' right to compensation in accordance with the existing law.

In the case of customary land, District Commissioner ascertains from the village head, the land register, or whichever is applicable in order to determine the person or persons who have the right over that land. And in the case of freehold land the Ministry of Lands and Housing shall ascertain the registered owner or owners of the freehold land to be acquired from the land registers.

The District Commissioner commissions a survey on such land to be acquired. Thereafter a plan is prepared and certified to be accurate showing:

- i. Land to be acquired;
- ii. Names of the owners and occupiers of that land as far as they can be ascertained; or
- iii. In the case of customary land the name of the land owner who is the holder of the right over the land as ascertained by the local chief and other bonafide local residents.

A copy of such plan shall be deposited in the office of the District Commissioner and another at the premises of the local chiefs. It should be highlighted that in case some project affected persons have objections to the proposed land acquisition and resettlement, their objections have to be done in writing to District Commissioner for or Commissioner for Lands and Valuation within 30 working days after the public notice. Alternatively, formal complaint can be lodged via traditional authority.

### **3.2 Policy and Legal framework on resettlement**

Policy and legal framework on resettlement in Malawi is drawn from various government policies and pieces of legislation. In addition to a review of the Constitution of Republic of Malawi, other key government policies and pieces of legislation considered here include: Malawi National Policy, Land Act, Land Acquisition Act, The Public Roads Act, The Town and Country Planning Act, and the Forestry Act. The following paragraphs highlight some resettlement related requirements as enshrined in these statutes.

#### **i. The Constitution of Republic of Malawi (1995)**

The Constitution of the Republic of Malawi guarantees land as a basic resource for social and economic asset for all Malawians. It affirms equitable access of land and ownership of property. The constitution also sets a benchmark on the issue of land acquisition. It provides in section 28(2) that “No person shall be arbitrarily deprived of property” and in section 44(4) that “Expropriation of property shall be permissible only when done for public utility and only when there has been adequate notification and appropriate compensation provided that there shall always be a right to appeal a court of law”. In regard to these facts, it will be necessary for the community to provide adequate land to for displaced persons. The Constitution of Republic of Malawi further guarantees security of tenure of land and free enjoyment of legally acquired property rights in any part of the country. The implication is that Government will have to pay out fair and adequate compensation to affected people.

#### **ii. The Malawi National Land Policy (2002)**

The Malawi National Land Policy focus on land as a basic resource common to all people of Malawi and for enhancement of socio – economic development. Section 4.11 affirms equitable access to land to all citizens of Malawi. The policy recognizes human settlement and agriculture as the major benefactor land use sector. As such, the policy advocates for orderly resettlements of villages or households especially in rich agricultural zones. Further more the policy guarantees full legal protection to customary land tenure to the people of Malawi in order to enable the ordinary Malawians adequately participates in subsistence farming and socio-economic development activities. The Malawi National Land Policy also advocates for fair compensation on open market value to local people on all classes of land (whether held under customary land tenure or leasehold) in case such land is acquired for public interest or for development of public infrastructure. In reference to relocation of displaced people, the policy advocates adequate consultations with the affected people so that their interests are taken care of.

#### **iii. Land Act (1969)**

Land Act covers land tenure and land use quite comprehensively. Section 27 and 28 of the act guarantees landholders for appropriate compensation in event of disturbance of or loss or

damage to assets and interests on land Act also provides procedures of acquisition of one class of land to another. The process begins with appropriate notice the existing lessee of the land.

#### **iv. Land Acquisition Act (1971)**

This law covers procedures relating to the acquisition of land by either the government or individuals or developers from any form of the land tenure systems in Malawi. The act makes provision for preliminary investigation, preliminary survey of the area and the procedure to be followed where land should be acquired. The procedure for land acquisition starts with issue of a formal notice to persons who have existing interests in the land. Such notices are issued under section 6 of this act. Sections 9 and 10 of the act covers the steps for assessment of land, crops, fruits and other landed properties and subsequent procedures for payments of the compensations to the displaced people. Section 11 to 14 outlines the necessary steps for land surveying and land transfer following notices in government gazette. The responsibility of identifying alternative land for those affected people rests with their village headman, their traditional authority and District Commissioner of the district. The District Commissioner assists in transportation and provisions of necessary services on new sites of resettlement.

#### **v. Town and Country Planning Act (1988)**

The Town and Country Planning Act, is a principal act for regulating land use planning and physical developments in Malawi. The aim of regulating land uses and location of physical developments is to enhance orderly spatial physical growth of human settlements activities. In addition the laws promotes orderly physical planning in order to enhance optimum use of land and service infrastructures, protect and conserve fragile environmental systems in space. These objectives are achieved by guiding physical developments, and controlling building uses in designated zones with regulated planning permissions. Section 40 basically prescribes environmental and socio-economic screening for medium to large scale development projects before they can be granted planning permissions under this act. Normally, local assemblies and developers of proposed large projects undertake this screening.

Sections 63 - 65 recognize the need of appropriate compensations to land owners in case of compulsory acquisition of land for public interest. Although the provisions indicate that compensation is at discretion of government, recent amendment to the sections have provided room for appeal to the high court by land owners in case they are aggrieved on amount of compensation on their assets. It is expected that there will be no cases of compulsory acquisition of land.

#### **vi. Public Roads Act**

The public roads act covers the management of road reserves and streets. Land acquisition and resettlement issues are outlined in part II of the act. Section 44 provides assessment of compensations, which can be paid under this act. The compensations cover surface and land rights of the owner or occupier of land. Section 45 provides for compensation for conversion of land into public use and the section states specifically that in case of customary land compensation is in respect to disturbance to people, section 49 and section 50 provide opportunities for land owners or occupiers to appeal to the High Court on grievances related to resettlement and compensations provided for in this act.

#### **vii. Forest Act (1997)**

The Forestry Act number 11 of 1997 affirms the role of Department of Forestry on control, protection and management of forest reserves and protected forest areas. In addition the act

recognizes the need to promote participatory social forestry and empowerment of communities for conservation and management of trees within the country. In this regard the act encourages community involvement in woodlots and management of forest reserves through co-management approaches. Section 86 of Forestry Act has provided guidelines on values/rates for sale of both indigenous trees and exotic trees. These rates are gazetted, and are reviewed from time to time by senior government officials. The values are used so that those who are involved in forestry are paid reasonable compensations on their timber trees and fruit trees. In case the department has not reviewed the rates at the material time, the department of Forestry normally assigns an officer to value the trees for purpose of immediate sale or compensations. Normally, the valuation of people's trees are done based on species of trees, measured diameter of breast height and market price in kwacha per cubic metre.

### **3.3 World Bank Involuntary Resettlement Policy (OP/BP 4.12)**

World Bank Policy on resettlement is outlined in Operational Policy OP/BP 4.12, and the overall objective of this safeguard is to avoid or minimize involuntary resettlement where feasible, exploring all viable alternative project designs. Further the policy advocates encourages community participation in planning and implementing resettlement. More specifically, where resettlement is unavoidable, the policy stipulates criteria for eligibility to compensation, resettlement assistance and assistance measures to displaced persons on the following conditions:

- a. Those who have formal legal rights to land, including customary and traditional rights recognized under the laws of Malawi. This class of people includes those holding leasehold land, freehold land and land held within the family or passed through generations.
- b. Those who have no formal legal rights to land at the time the census but have a claim to such land or assets provided that such claims are recognized under the Malawi's laws. This people includes foreigners and those that come from outside and given land by the local chief to settle.
- c. Those who have no legal right or claim to the land they are occupying to the land they are occupying. This class of people includes squatters, pirates and those that settle at a place on semi-permanent basis, or those settling at a place without any formal grant or authority.

Displaced persons classified under paragraph 3.3 (a) and 3.3 (b) shall be provided compensation, resettlement assistance and rehabilitation assistance for the land, building or fixed assets on the land and buildings taken by the project in accordance with the provisions of this framework if they occupy the project area prior to the cut-off date (date of commencement of the census). Displaced persons classified under paragraph 3.3 (c) shall be eligible for compensation for the assets but not land. In addition the World Bank policy on resettlement stipulate those displaced persons who encroach on the project area after the cut-off date shall not be entitled to compensation, or any resettlement assistance or any other form of rehabilitation assistance.

### **3.4 Gap analysis between national law and the Bank's Policy**

Policies of the World Bank on resettlement and of Government of Republic of Malawi have a number of common aspects in management of resettlement. For example both policies emphasise on minimisation of the extent of resettlement. Secondly, the policy recommends considerations of fair and adequate compensations to project affected persons. However, there some gaps which exists between the policies of World Bank and those of Government of Republic of Malawi. A detailed comparative analysis is provided in Table 1. Some selected examples are as follows:

- i. Under WB Resettlement Policy (OP/BP 4.12), displaced persons are classified into the three groups mentioned in section 3.3 (a, b and c). Land owners under Group a and b, are among the PAPs who are entitled to full, fair and prompt compensation as well as other relocation assistance. With respect to those in Group c, where displaced persons have no recognizable legal rights they are to be provided with resettlement assistance in lieu of compensation for the land they occupy, as well as other assistance. Under Malawi law, Group (a) and (b) are entitled to compensation. However, those under (c) are not entitled to compensation. However, they will be given compensation for the investment they made on the land.
- ii. On aspects on compensations on land, the policies of Government of Malawi consider the different intrinsic values associated with various classes of land (customary land, leasehold land, freehold land, public land). In such cases, rates for compensation on land vary from one site to another and from one class of land tenure to the other. World Bank policies do not distinguish such differential aspects of land classes and corresponding different market rates and instead insist on replacement cost of the land regardless of its type.
- iii. In cases on compensation of loss of land by project affected people, the World Bank policies prefer land for land compensation. In Malawi an option of land for land compensation is normally preferred in customary land transaction while option of land for money compensation is the preferred options in urban areas.
- iv. Bank's policy clearly stipulate resettlement as an upfront project – in that all issues of land acquisition and relocation of project affected people has to be done prior to commencement of the project site on the acquired site. Malawian policies do not clearly spell out this approach and in practice; resettlement is treated as a separate exercise outside project planning and implementation.
- v. Bank's policy clearly recommends for adequate resettlement assistance and rehabilitation assistance to relocated people as a way of restoring and enhancing socio – economic living standards. This is supposed to be undertaken within the first years of relocation on the new sites. Malawi legislation does not clearly define the extent of resettlement assistance to relocated people. Much of available support is normally left in hands of District Commissioner and local chiefs within the district and area of relocation of the project affected people.

Other gaps between the two approaches are in the following areas:

- **Extent of entitlement:** World Bank OP/BP 4.12 includes affected parties with non-formal property rights, while this does not apply in all instances in Malawi.
- **Timing of payments:** World Bank OP/BP 4.12 requires payment before loss of assets, while the Malawi legislation does not have this requirement.
- **Relocation and resettlement:** World Bank OP/BP 4.12 requires additional assistance with resettlement (such as establishment of new sites) while this is not provided in Malawi's laws.
- **Livelihood restoration:** The World Bank OP/BP 4.12 requires that livelihoods are improved or at least restored, while the Malawi's laws contains no requirements for livelihood restoration.
- **Grievance mechanisms:** World Bank OP/BP 4.12 requires that a grievance mechanism is established as early as possible in the project development phase, while the Malawi Government does not specify on the same.

**Table 1: Outline of selected differences on management of resettlement between World Bank Policy on Resettlement (OP 4.12) and Laws of Malawi**

Project affected person	Provisions from relevant laws of Government of Malawi		World Bank Provision on the aspects	Appropriate measures for addressing the gaps.
	Name of Legislation	Provision within piece of legislation in Malawi		
Land Owner/Occupier	Public Roads Act ( <i>chapter 69:02</i> )	<ul style="list-style-type: none"> <li>The law stipulates payment of cash compensation based on loss or damage or destruction to structures and any form of properties. No compensation on land.</li> </ul>	<ul style="list-style-type: none"> <li>The policy stipulates that land owners are entitled to compensation of land, compensation of building on replacement costs, expenses on labour</li> <li>The policy stipulate that land owners are entitled to compensation for crops</li> </ul>	<ul style="list-style-type: none"> <li>Compensation of land for land to project affected persons.</li> <li>Compensation of all structures at full replacement costs prior to displacement</li> <li>Compensations on crops and trees on real replacement values.</li> </ul>
Land Owner/Occupier	Public Roads Act ( <i>chapter 69:02</i> )	<ul style="list-style-type: none"> <li>The law stipulates that land owners are entitled to reasonable compensation offered by government on customary land</li> <li>The law stipulates that land owners can be compensated for land to land if alternative land is available.</li> <li>The law stipulates that land owners can be compensated for land to money if there is not alternative land or if the offered alternative land is not economically productive</li> </ul>	<ul style="list-style-type: none"> <li>The policy stipulates that the recommended option is compensation of land for loss land. Other losses to be compensated at replacement costs.</li> <li>The policy stipulates that temporary structures or buildings are entitled for in land compensation or cash compensation at full replacement costs including labour and relocation expenses prior to displacement</li> </ul>	<ul style="list-style-type: none"> <li>Compensation of land for land to project affected persons will be the first priority.</li> <li>Compensation of money for land to project affected persons in cases of lack of alternative suitable land.</li> <li>Compensation of all structures at full replacement costs and labour costs prior to displacement</li> <li>Compensations on crops and trees on market values.</li> <li>Resettlement assistance to project affected persons.</li> </ul>
Land Owner/Occupier	Public Roads Act ( <i>chapter 69:02</i> )	<ul style="list-style-type: none"> <li>The law stipulates that no compensation to improvements on land within road reserves (section 44)</li> <li>The law stipulates that no compensation to squatters unless they occupy the land for continuously for</li> </ul>	<ul style="list-style-type: none"> <li>The policy stipulates that persons are entitled to compensation regardless of the legal status of their structures or occupation of the land</li> <li>The policy stipulates that owners of buildings built illegally are entitled to</li> </ul>	<ul style="list-style-type: none"> <li>Compensation of all structures at full replacement costs prior to displacement</li> <li>Compensations on crops and trees on real replacement values.</li> <li>Compensation on labour costs based</li> </ul>



		a period of more than 7 years	in land compensation at full replacement costs including labour costs prior to displacement.	on real replacement values.
Land Owner/Occupier	Land Acquisition Act (Chapter 57:04)	<ul style="list-style-type: none"> <li>• The law stipulates that compensation based on assessment done by government and agreed by parties.</li> <li>• The law stipulates that compensation given when land is acquired.</li> <li>• The law stipulates that compensation not to exceed market value.</li> </ul>	<ul style="list-style-type: none"> <li>• The policy stipulates that owners of buildings built illegally are entitled to in land compensation at full replacement costs including labour costs prior to displacement.</li> </ul>	<ul style="list-style-type: none"> <li>• Compensation of all structures at full replacement costs prior to displacement</li> </ul>
Land Owner/Occupier	Land Act (Chapter 57:01)	<ul style="list-style-type: none"> <li>• The law stipulates that reasonable cash compensation to loss of affected persons for loss of land</li> </ul>	<ul style="list-style-type: none"> <li>• The policy stipulates that owners of buildings built illegally are entitled to in land compensation at full replacement costs including labour costs prior to displacement.</li> </ul>	<ul style="list-style-type: none"> <li>• Compensation of structures at full replacement costs and labour costs prior to displacement</li> </ul>
Land Owner/Owner	Customary Land Act	<ul style="list-style-type: none"> <li>• The law favours land for land compensations</li> </ul>	<ul style="list-style-type: none"> <li>• The policy favours land for land compensations in cases of loss of land by project affected persons.</li> <li>• The policy stipulates that owners of buildings built illegally are entitled to in land compensation at full replacement costs including labour costs prior to displacement.</li> </ul>	<ul style="list-style-type: none"> <li>• Compensation of land for land to project affected persons.</li> <li>• Compensation of structures at full replacement costs prior to displacement</li> </ul>

### 3.5 Addressing Policy Gaps in Implementation

The approach in addressing the discrepancies between policies of the two institutions is to focus implementation of policy aspects, which positively favour the PAPs, and leave out those that negatively impact on the project affected persons. This recommendation is on the observation of that the common position between World Bank Policy on Resettlement and the Constitution of Republic of Malawi on resettlement is the guarantee of fair and adequate compensation and adequate resettlement assistance for the PAPs. In this regard, suitable options to be adopted are as follows:

- a. Compensations in form of land for land loss to acquisition from those who have been displaced be made as a top priority .The option could come out as cost effective as the land acquisition process (which involves the project affected persons) may be much cheaper compared to acquisition of the same land by the government.
- b. Compensations related to customary land acquisition to be made on real replacement values as opposed to previous practice of considering customary land as a free commodity. Whenever there is a conflict between the Bank and Government of Malawi policies on land tenure that of the World Bank will prevail.
- c. Compensations should be paid to categories of PAPs so long they are covered within the cut off date. Some special project affected persons to be included are the squatters, pirates, vendors' stalls/hawkers.
- d. Compensations should be paid in relations to labour and other inputs into gardens and maintenance of trees and crops.
- e. Provisions of basic and social services (such as potable water, graded access roads, sanitation facilities, subsidized fertile, income generating activities) to project affected people within the new area of relocations. Such support would enhance the restoration of standards of living of the PAPs.



## Chapter 4: Potential Environmental and Social impacts of Resettlements

In road construction, resettlement refers to where inhabitants are moved away from their original locality because their dwelling places or income earning land will become part of the right of way for a road. It is important to note that settlers who are occupying a proposed right of way illegally and who are moved to another location (or are forced to move themselves) should be included in resettlement programs. However some consideration needs to be given to the length of settlement in the right of way – it is not unknown for people to move into a right of way after a project is announced so as to receive benefits such as compensation and resettlement.

The major potential impacts of resettlement are as follows:

- **Adverse socio-economic impacts on both the resettled and on the host population.**

SATTFP, being a liner project goes through a number of districts and villages and even though the impact on each area may not be substantial, the cumulative impact could be. Moreover, given the large area the project covers there will be vulnerable and marginalized groups from different social and ethnic background who could be affected. As a result, when preparing the RAPs this diversity will be considered and the project will ensure that all affected people are included in the consultation and appropriate mitigation measures are devised to make sure no one will be worse off as a result of the project. Moreover, the social and cultural lives of the affected people are not disturbed and if it is they are they will be restored in socially appropriate manner. Groups that have strong cultural ties to their present location will require particular measures and may warrant diversion of the road to avoid having to resettle them. Examples include groups which have strong spiritual ties to a place or to a feature of a place and who believe that their existence as a people is dependent on those ties. Strong cultural ties to burial sites are also not uncommon. .

- **Conflict between those resettled and the host population.**

Very significant and long-term impacts can occur where there are major cultural differences between those resettled and the original population in the resettlement area. Not uncommonly these impacts are expressed as an ongoing lack of cooperation and communication, which may escalate into overt violence. Even without major cultural differences, there is likely to be resentment among the host population of those resettled into their area. This stems from a range of perceptions, including: the impression that those resettled are receiving preferential treatment from the government; feelings that the local resources are inadequate to support an increased population; and a general fear and distrust of outsiders.

- **Adverse impacts on the environment in and around the resettlement area.**

New settlements make new demands on their environment. In addition, the preparation of the resettlement area, including the construction of infrastructure such as roads, houses, and water supplies, and the clearing of land for agriculture, are likely to have environmental impacts. These must be regarded as impacts of the original road project, which caused the resettlement and must be assessed as part of that project. New settlers in an area will lack the local ecological and resource management knowledge accumulated by local people over many generations. For this reason they are likely to engage in unsustainable resource exploitation. Even where they are

aware of the environmental limitations of their new area, the depressed economic circumstances resulting from resettlement may force them to engage in unsustainable resource use merely in order to survive. Table 2 that follows summarizes impacts commonly triggered by resettlement.

**Table 2: Summary of main social and economic impacts from resettlement activities.**

Category of losses	Social and economic impacts
Displacement from land	<ul style="list-style-type: none"> <li>• Landlessness</li> <li>• Loss of productive resource for agriculture and other businesses</li> </ul>
Loss of residential property and homestead	<ul style="list-style-type: none"> <li>• Landlessness, homelessness</li> <li>• Impoverishment of people</li> <li>• Disturbance of house production systems</li> <li>• Loss of sources of income</li> <li>• Loss of or weakening of community system and social networks.</li> <li>• Loss of access to ancestral sites, graveyards</li> <li>• Loss of access to social amenities such as hospitals and schools.</li> <li>• Loss of traditional authority.</li> </ul>
Loss of assets or access to assets	<ul style="list-style-type: none"> <li>• Impoverishment</li> <li>• Loss of sources of income</li> <li>• Loss of employment opportunities ( self – employment)</li> </ul>
Loss of income sources or means of livelihood	<ul style="list-style-type: none"> <li>• Impoverishment</li> <li>• Loss of self – employment opportunities</li> <li>• Disruption of attainment of services such as schools, health services resulting in further impoverishment, malnourishment</li> </ul>
Loss of identity and cultural survival	<ul style="list-style-type: none"> <li>• Alienation of persons from their tribal society</li> <li>• Lack of access to community support</li> </ul>
Loss of access or proximity to social amenities e.g. water sources	<ul style="list-style-type: none"> <li>• Impoverishment.</li> <li>• Loss of sources of income</li> <li>• Increased time to access resources. Loss or shortage of time for other activities</li> </ul>
Blockage of footpaths/pathways	<ul style="list-style-type: none"> <li>• Increase in travel distance due to longer route</li> </ul>
Loss of grazing land	<ul style="list-style-type: none"> <li>• Difficulties in rearing livestock</li> </ul>
Blockage of access to public water bodies	<ul style="list-style-type: none"> <li>• Difficulties in collection of water for domestic uses</li> <li>• Difficulties in collection of water for irrigation</li> </ul>



## Chapter 5: Principles and Concepts

The Resettlement safeguard policy (OP/BP 4.12) is triggered when a specific RA project requires land to be appropriated for project use, and people may be affected because they are cultivating on the land, they may have buildings on the land, they may use the land for water and grazing of animals, or they may otherwise access the land economically, spiritually, or in another way that may not be possible during or after project implementation.

### 5.1 Principles

The RA projects should avoid or minimize the disturbance and displacement of human populations. Where such disturbance is unavoidable, this negative impact on the people should minimize through judicious routing or siting of project facilities. In this regards, the purpose of this RMF is to ensure that people who are physically or economically displaced as a result of a project construction end up no worse off - and preferably, better off - than they were before the subproject.

The main principles that should take into account when the resettlement/compensation safeguard is triggered are the following:

- i. Involuntary resettlement and land appropriation should be avoided where feasible, or minimized, and all viable alternatives explored;
- ii. Where involuntary resettlement and land appropriation are unavoidable, resettlement and compensation activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to give the persons economically or physically displaced by the project the opportunity to share in project benefits.
- iii. Displaced and compensated people should be meaningfully consulted and have opportunities to participate in planning and implementing resettlement/compensation plans; and
- iv. Displaced (economically or physically) and compensated persons should be assisted in their efforts to improve, or at least restore, their livelihoods and standards of living, in real terms, to pre-displacement levels or levels prevailing prior to the beginning of project implementation, whichever is higher.

### 5.2 Involuntary Resettlement

Resettlement is involuntary when it occurs without the informed consent of the displaced persons or, if they give their consent, without having the power to refuse resettlement. People occupying or otherwise dependent on that land for their livelihoods may be offered fair compensation for their losses.

#### 5.2.1 Type of involuntary resettlement

The displacement may be either physical or economic:

- a. **Physical displacement:** Is the actual physical relocation of people resulting in a loss of shelter, productive assets, or access to productive assets (such as land, water, and forests).

- b. Economic displacement:** Results from an action that interrupts or eliminates people's access to productive assets without physically relocating the people themselves. The safeguard policy applies in either situation.

While land acquisition does not necessarily require the displacement of people occupying or using the land, it may have an effect on the living standards of people who depend on resources located in, on, or around that land. For example, a farming family may lose a portion of its land to a project without having to vacate its homestead. Nevertheless, the loss of even a portion of its land may reduce the overall productivity of that farm. Alternatively, land acquisition may restrict a community's access to commonly held resources such as rangeland and pasture, non-timber forest resources (such as medicinal plants or construction and craft materials), woodlots for timber and fuel wood, or fishing grounds.

Similarly, the acquisition of water resources by a project may entail neither land acquisition nor physical relocation but may nonetheless have negative effects on the livelihoods of people living in the project area. For example, the diversion or impoundment of a river's flow for the generation of hydroelectric power may affect the livelihoods of downstream farmers who rely on minimum flows for irrigating crops. A coastal power plant or factory using ocean water for cooling purposes may affect fish habitats, thereby affecting the livelihoods of people who fish the coastal waters.

### 5.2.2 Classification of involuntary resettlement

Common classification of involuntary resettlement and the issues associated with them include:

- a. Rural resettlement:** Displacement of people in rural areas typically results from a project's acquisition of farm land, pasture, or grazing land or the obstruction of access to natural resources on which affected populations rely for livelihoods (for example, forest products, wildlife, and fisheries). Major challenges associated with rural resettlement include: requirements for restoring income based on land or resources; and the need to avoid compromising the social and cultural continuity of affected communities, including those host communities to which displaced populations may be resettled.
- b. Urban resettlement:** Resettlement in urban or peri-urban settings typically results in both physical and economic displacement affecting housing, employment, and enterprises. A major challenge associated with urban resettlement involves restoration of wage-based or enterprise-based livelihoods that are often tied to location (such as proximity to jobs, customers, and markets). Resettlement sites should be selected to maintain the proximity of affected people to established sources of employment and income and to maintain neighborhood networks. In some cases, the mobility of urban populations and the consequent weakening of social safety nets that are characteristic of rural communities require that resettlement planners be especially attentive to the needs of vulnerable groups.
- c. Linear resettlement:** Linear resettlement describes projects having linear patterns of land acquisition (pipelines in the case of water and sewage projects). In sparsely populated rural areas, a linear project may have minimal impact on any single landholder. Compensation is characterized by a large number of small payments for the temporary loss of assets such as standing crops. If well designed, linear projects can easily avoid or minimize the demolition of permanent structures. Conversely, in a densely populated urban area, a linear project such as a main water pipeline may require the demolition of structures along the project right-of-way, thereby significantly affecting large numbers of people. Linear resettlement contrasts with site-specific resettlement because of the problems that frequently arise when resettlement actions have to be coordinated across multiple administrative jurisdictions and/or different cultural and



linguistic areas.

- d. Site-specific resettlement:** Site-specific resettlement is associated with discrete, non-linear projects such as reservoir, well fields, others, where land acquisition encompasses a fixed area. Communities threatened with displacement at some future date often prefer to remain in place until resettlement is absolutely necessary. The major challenge in such incremental resettlement is maintaining a consistent approach to compensation and income restoration over the life of the project. In the SATTFP considered investment in a project with such potentially large and controversial effects, the RA would require that subproject to support development initiatives to reestablish the affected people in significantly improved social and economic conditions.

### 5.3 Project Affected People

Project affected people or household (PAPs), refers to people directly affected, socially and economically, by a project construction, as a result of: **(i)** The appropriation of land and other assets causing (relocation or loss of shelter; loss of assets or access to assets; loss of income sources or means of livelihood, whether or not of the affected person; and persons must move to another location); and **(ii)** The restriction or denial of access to legally designated areas that result in adverse impacts on the livelihood of the economically or physically displaced persons.

#### 5.3.1 Type of PAPs

Until the exact project location sites are determined, it will not be possible to estimate the number of people who may be affected, since the technical details (feasibility study) of the project have not yet been developed and are unknown. However, the likely displaced (economically or physically) persons can be categorized into three groups: (i) individuals; (ii) households; and (iii) vulnerable groups or people.

- a. Individual affectation:** This type of affectation refers to an individual who suffers loss of assets or investments, land, property, or access to natural and/or economical resources as a result of the activities and to whom compensation is due. For example, an affected individual is a person who farms or works and lives on a farm, a pastoralist whose routes have been altered, or a person who has built a structure on land that is now required by the developer. This will include affected individuals who have economic activity, rights of way, and other servitudes on road reserves and on customary land.
- b. Household affectation:** A household is affected if one or more of its members is affected by the program activities, either by loss of property, land or access, or is otherwise affected in any way by program activities. This includes:
- Any members in the households (men, women, children, dependent relatives, and friends);
  - Vulnerable individuals who may be too old or ill to farm along with the others;
  - Members of households who cannot reside together because of cultural rules, but who depend on one another for their daily existence;
  - Members of households who may not eat together, but provide housekeeping or reproductive services critical to family maintenance; and
  - Other vulnerable people who cannot participate for physical or cultural reasons in production, consumption, or co-residence.
- c. Vulnerable groups of people:** In Malawi, vulnerable households may have different land needs from other households or needs unrelated to the amount of land available to them. They may

already be undergoing some form of rehabilitation including training to acquire vocational skills in purpose-built centers and/or other forms of special care. Vulnerable people include:

- **Unmarried women:** These women may be dependent on sons, brothers, or others for support. Since an affected individual is able to name the person with whom he or she is linked to in dependency as part of the household, resettlement will never sever this link.
- **Elderly:** Elderly people farm or work as long as they are able. Their economic viability may depend on how much land they farm or how much they produce, because by producing even small amounts of food to "exchange" with others, they can subsist on cooked food and generous return gifts of cereal from relatives, friends, and neighbours. Losing land will affect their economic viability.
- **People living with HIV/AIDS:** Relatively high percentages of the poor and total population are living with HIV or are terminally ill with AIDS. Many are beneficiaries of numerous health programs from government, international organizations, and NGOs.
- **Orphans:** Due to the impacts of the HIV/AIDS crisis that plagues Malawi, there are a considerable number of orphaned children whose parents have died from AIDS. These children today fall into three categories of care: (i) those being looked after by an uncle, aunt, grandparents, or other close relative; (ii) those being looked after by the government, local authorities, or NGOs; and (iii) those living alone and providing for themselves and other siblings. These children are more vulnerable since they are often "voiceless"; they have no parents to defend or stand up for them and they are considered too young to be heard. Orphaned children engage in any form of economic activity to provide for themselves and their siblings, including selling paraffin or water, artisanal mining, and exploitative employment, among others.
- **Exploited children:** Despite Malawi law and the International Labour Organization (ILO) prohibiting the exploitation of children, it is a reality that street children are either in paid employment or are on the streets in some areas in Malawi. They tend to live in close proximity to large towns and cities.
- **Street children:** Should they become impacted by the subproject in a way that means they have to be physically relocated; their compensation cannot be in cash. They would have to be put in a United Nations Children's Fund (UNICEF) program or registered with one of the many children's charities operating in Malawi. Their compensation would take the form of paying for their rehabilitation and vocational training.
- **Female-headed households:** These households may depend on husbands, sons, brothers, or others for support. However, there are also cases where women are the main breadwinner in their household even when the men have remained with the family. Women therefore need relatively easy access to health service facilities. This includes situations where the land being appropriated is used by a woman with no formal rights to it or where a woman who is dependent on a man other than her husband for her primary income. These women should not be resettled in a way that separates them from these sources of support because the very survival of their households may depend on them. Their compensation must take into account all these factors.
- **Small-scale women farmers:** These women farmers are vulnerable because they may not have men available within the household to carry out male-specific land preparation tasks such as ringing trees or clearing or plugging land. Either male relative in other households

help them voluntarily, or they hire men and pay by cash, beer (locally brewed), or food. Land compensation specifically includes the labour costs for preparing new land, so this expense is covered for women farmers.

- **Non-farming women:** These women earn income from other sources and/or depend on relatives for exchanges of staple foods. Because they do not farm they will not be affected by a subproject's need for agricultural land. However, if a building owned by a woman lies on land needed by a subproject, they will receive replacement cost compensation. If someone on whom they depend is displaced/resettled, they are protected because the displaced/resettled person can name them as part of the household.

These groups are identified as particularly vulnerable to ensure that they are included in the socioeconomic and baseline study so that: (i) they are individually consulted and given the opportunity to participate in the project activities; (ii) their resettlement/compensation are designed to improve their pre-project livelihood; (iii) they receive special attention to ensure that their pre-project livelihood is indeed improved upon; (iv) they are given technical and financial assistance if they wish to make use of the grievance mechanisms of the project; and (v) decisions concerning them are made in the shortest possible time.

### 5.3.2 Legal status of the PAPs

The Resettlement/Compensation safeguard suggests the following three categories of affected people:

- i. Those who have formal rights to land (including customary/village land, traditional, and religious rights recognized under Malawi law);
- ii. Those who do not have formal legal rights to land at the time the census begins, but have a claim to such land or assets, provided that such claims are recognized under the national and local laws or become recognized through a process identified in the resettlement plan; and
- iii. Those who have no recognizable legal right or claim to the land they are occupying, using, or obtaining their livelihood from.

People described under (i) and (ii) are to be compensated for the land they lose and provided other assistance in accordance with OP/BP 4.12. People described under (iii) are to be provided with resettlement and other assistance in lieu of compensation for the land they occupy, as necessary, to achieve the objectives set out in this policy, if they occupy the project area prior to a cut-off date that is acceptable to the Bank and established by the local traditional leaders in close consultation with the potential PAPs, local community leaders, and respective village and district administration. Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance. All persons included in (i), (ii), or (iii) are to be compensated for loss of assets other than land.

Therefore, it is clear that all PAPs, irrespective of their status or whether they have formal titles or legal rights or are squatters or otherwise encroaching illegally on land, are eligible for some kind of assistance if they occupied the land before the entitlement cut-off date (Table 3). Persons who encroach the area after the socioeconomic study (census and valuation) are not eligible for compensation or any form of resettlement assistance.

**Table 3: Entitlement Matrix for Various Categories of PAP**

Land and Assets	Types of Impact	PAP	Compensation
<b>LAND</b>			
Agricultural Land	<ul style="list-style-type: none"> <li>– Less than 20% of land holding affected</li> <li>– Land remains economically viable.</li> </ul>	Land Owner	– Cash compensation for affected land equivalent to replacement value
		Tenant/ lease holder	– Cash compensation for the harvest or product from the affected land or asset, equivalent to average market value of last 3 years, or market value of the crop for the remaining period of tenancy/lease agreement, whichever is greater.
Agricultural Land	<ul style="list-style-type: none"> <li>– More than 20% of land holding lost OR</li> <li>– Less than 20% of land holding lost but remaining land not economically viable</li> </ul>	Land Owner	<ul style="list-style-type: none"> <li>– Land for land replacement where feasible, or compensation in cash for the entire landholding (PAP's choice).</li> <li>– Land for land replacement will be in terms of a new parcel of land of equivalent size and productivity with a secure tenure status at an available location which is acceptable to PAPs. Transfer of the land to PAPs shall be free of taxes, registration, and other costs.</li> <li>– Relocation assistance (costs of shifting + assistance in re-establishing economic trees + allowance up to a maximum of 12 months while short- term crops mature)</li> <li>– Relocation assistance (costs of shifting + assistance in re-establishing economic trees + allowance up to a maximum of 12 months while short-term crops mature).</li> </ul>
		Tenant/ Lease holder	<ul style="list-style-type: none"> <li>– Cash compensation equivalent to average of last 3 years' market value for the mature and harvested crop, or market value of the crop for the remaining period of tenancy/lease agreement, whichever is greater.</li> <li>– Relocation assistance (costs of shifting + assistance in re-establishing economic trees + allowance up to a maximum of 12 months while short-term crops mature).</li> </ul>
		Non-title-holder (eg Pastoralists)	– Grazing area replacement to land of sufficient carrying capacity to sustain herd size, with support infrastructure. Secure tenure status at an available location which is acceptable to PAPs. Transfer of the land to PAPs shall be free of taxes, registration, and other costs.
Commercial Land	<ul style="list-style-type: none"> <li>– Land used for business partially affected</li> <li>– Limited loss</li> </ul>	Title holder/ business owner	<ul style="list-style-type: none"> <li>– Cash compensation for affected land.</li> <li>– Opportunity cost compensation equivalent to 5% of net annual income based on tax records for previous year (or tax records from comparable business, or estimates where such records do not exist).</li> </ul>
		Business owner is lease holder	– Opportunity cost compensation equivalent to 10% of net annual income based on tax records for previous year (or tax records from comparable business, or estimates where such records do not exist)
Commercial Land	<ul style="list-style-type: none"> <li>– Assets used for business severely affected</li> <li>– If partially affected, the remaining assets become insufficient for business purposes</li> </ul>	Title holder/business owner	<ul style="list-style-type: none"> <li>– Land for land replacement or compensation in cash according to PAP's choice. Land for land replacement will be provided in terms of a new parcel of land of equivalent size and market potential with a secured tenure status at an available location which is acceptable to the PAP.</li> <li>– Transfer of the land to the PAP shall be free of taxes, registration, and other costs.</li> <li>– Relocation assistance (costs of shifting + allowance).</li> <li>– Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (or tax records from comparable business, or estimates).</li> </ul>

Land and Assets	Types of Impact	PAP	Compensation
		Business person is lease holder	<ul style="list-style-type: none"> <li>– Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (or tax records from comparable business, or estimates), or the relocation allowance, whichever is higher.</li> <li>– Relocation assistance (costs of shifting).</li> </ul>
Residential Land	<ul style="list-style-type: none"> <li>– Land used for residence partially affected, limited loss</li> <li>– Remaining land viable for present use.</li> </ul>	Title holder	<ul style="list-style-type: none"> <li>– Cash compensation for affected land.</li> </ul>
		Rental/lease holder	<ul style="list-style-type: none"> <li>– Cash compensation equivalent to 10% of lease/ rental fee for the remaining period of rental/ lease agreement (written or verbal).</li> </ul>
		Title holder	<ul style="list-style-type: none"> <li>– Land for land replacement or compensation in cash according to PAP's choice.</li> <li>– Land for land replacement shall be of minimum plot of acceptable size under the zoning law/ s or a plot of equivalent size, whichever is larger, in either the community or a nearby resettlement area with adequate physical and social infrastructure systems as well as secured tenure status.</li> <li>– When the affected holding is larger than the relocation plot, cash compensation to cover the difference in value.</li> <li>– Transfer of the land to the PAP shall be free of taxes, registration, and other costs.</li> <li>– Relocation assistance (costs of shifting + allowance).</li> </ul>
Residential Land	<ul style="list-style-type: none"> <li>– Land and assets used for residence severely affected</li> <li>– Remaining area insufficient for continued use or becomes smaller than minimally accepted under zoning laws</li> </ul>	Rental/lease holder	<ul style="list-style-type: none"> <li>– Refund of any lease/ rental fees paid for time/ use after date of removal.</li> <li>– Cash compensation equivalent to 3 months of lease/ rental fee.</li> <li>– Assistance in rental/ lease of alternative land/ property.</li> <li>– Relocation assistance (costs of shifting + allowance)</li> </ul>
<b>ASSETS AND IMPROVEMENTS</b>			
Buildings and structures	<ul style="list-style-type: none"> <li>– Structures are partially affected</li> </ul>	Owner	<ul style="list-style-type: none"> <li>– Cash compensation for affected building and other fixed assets</li> <li>– Cash assistance to cover costs of restoration of the remaining structure</li> </ul>
	<ul style="list-style-type: none"> <li>– Remaining structures viable for continued use</li> </ul>	Rental/lease holder	<ul style="list-style-type: none"> <li>– Cash compensation for affected assets (verifiable improvements to the property by the tenant).</li> <li>– Disturbance compensation equivalent to two months rental costs.</li> </ul>

Land and Assets	Types of Impact	PAP	Compensation
	<ul style="list-style-type: none"> <li>– Entire structures are affected or partially affected</li> <li>– Remaining structures not suitable for continued use</li> </ul>	Owner	<ul style="list-style-type: none"> <li>– Cash compensation for entire structure and other fixed assets without depreciation, or alternative structure of equal or better size and quality in an available location which is acceptable to the PAP.</li> <li>– Right to salvage materials without deduction from compensation.</li> <li>– Relocation assistance (costs of shifting + allowance).</li> <li>– Rehabilitation assistance if required (assistance with job placement, skills training).</li> </ul>
		Rental/lease holder	<ul style="list-style-type: none"> <li>– Cash compensation for affected assets (verifiable improvements to the property by the tenant).</li> <li>– Relocation assistance (costs of shifting + allowance equivalent to four months rental costs).</li> <li>– Assistance to help find alternative rental arrangements.</li> <li>– Rehabilitation assistance if required (assistance with job placement, skills training).</li> </ul>
		Squatter/informal dweller (including on road reserves)	<ul style="list-style-type: none"> <li>– Cash compensation for affected structure without depreciation.</li> <li>– Right to salvage materials without deduction from compensation.</li> <li>– Relocation assistance (costs of shifting + assistance to find alternative secure accommodation preferably in the community of residence through involvement of the project).</li> <li>– Rehabilitation assistance if required assistance with job placement, skills training).</li> </ul>
		Street vendor (informal without title or lease to the stall or shop)	<ul style="list-style-type: none"> <li>– Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (or tax records from comparable business, or estimates), or the relocation allowance, whichever is higher.</li> <li>– Relocation assistance (costs of shifting).</li> <li>– Assistance to obtain alternative site to re- establish the business.</li> </ul>
Standing Crops	Crops affected by land acquisition or temporary acquisition or easement	PAP (whether owner, tenant, or squatter)	<ul style="list-style-type: none"> <li>– Cash compensation equivalent to average of last 3 years market value for the mature and harvested crop</li> </ul>
Trees	Trees lost	Title holder	<ul style="list-style-type: none"> <li>– Cash compensation based on type, age and productive value of affected trees plus 10% premium</li> </ul>
<b>TEMPORARY ACQUISITION</b>			
Temporary Acquisition	Temporary Acquisition	PAP (whether owner, tenant, or squatter)  Business person is lease holder	<ul style="list-style-type: none"> <li>– Cash compensation for any assets affected (e. g. boundary wall demolished, trees removed)</li> <li>– Cash compensation for the harvest or product from the affected land or asset, equivalent to average market value of last 3 years, or market value of the crop for the period effected and any longer terms effects as a result of limited ability to replant etc.</li> <li>– Opportunity cost compensation equivalent to 5% of net annual income based on tax records for previous year (or tax records from comparable business, or estimates where such records do not exist).</li> </ul>

#### 5.4 Type of Compensation

Individual and household compensation will be made in cash, in kind, and/or through assistance. The type of compensation will be an individual choice. If the total loss of subsistence is more than 20% is preferable in-kind compensation.

- **Cash payments:** Compensation will be calculated in Malawi Kwacha (MK). Rates will be adjusted for inflation. Compensation may include items such as land, houses, among others;
- **In-kind:** Compensation can include buildings, building materials, seedlings, agricultural inputs, and financial credits for equipment; and
- **Assistance:** Assistance may include moving allowance, transportation, and/or labor.

Compensation payments raise issues regarding inflation, security, and timing that must be considered. One reason for providing in-kind compensation is to reduce inflationary pressures on the costs of goods and services. Local inflation may still occur, thus market prices will be monitored during the compensation period to allow for adjustments in compensation values. The question of security, especially for people who will be receiving cash compensation payments, needs to be addressed by the local administration. Local banks and microfinance institutions should work closely with the local administration at this level to encourage the use of their facilities, which will positively impact the growth of the local economies. Each recipient in consultation with the IA and the district, local, and traditional administrations, will decide upon the time and place for in-kind compensation payments.





## Chapter 6: Resettlement management Instruments and internal Tools

In order to achieve the resettlement/compensation safeguard, the RA has to develop three internal tools for the resettlement/compensation management during the project cycle, and two instruments for the resettlement/compensation implementation. The internal tools have been design to facilitate and systematize the internal management information during the project cycle; and the instruments have been design in order to comply with the national law and the Bank's OP/BP 4.12.

### 6.1 Instruments required for the resettlement/compensation safeguard

The resettlement/compensation instrument to comply with the national law and the Bank's OP/BP 4.12 Policy is the **Resettlement/Compensation Action Plan (RAP)**, and the scope and detail of the plan depends of the magnitude and complexity of the resettlement/compensation issue. If the estimated number of PAPs is more than 200 peoples (physically displaced) or more than the 10% of their productive assets are loss (economic displaced) a full **Resettlement/Compensation Action Plan (RAP)** is required and the project should be classified as "A". If the number of PAPs is less than 200 people (physically displaced) or less than 10% of their productive assets are loss (economic displaced), an **Abbreviate Resettlement Action Plan (ARAP)** is required and the project should be classified as "B". A specialized social consultant hired by the RA should develop these instruments. In the [Annex 2](#) are included the content of each instrument.

#### 6.1.1 Resettlement/Compensation Action Plan (RAP)

The RAP is based on up-to-date and reliable information about the proposed resettlement and its impacts on the displaced persons and other adversely affected groups and the legal issues involved in resettlement. To address the impacts under this resettlement/compensation safeguard, the RAP must include measures to ensure that the PAPs are:

- Informed about their options and rights pertaining to resettlement;
- Consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives;
- Provided prompt and effective compensation at full replacement cost for losses of assets and access attributable to the project; and
- Enabled to restore and preferably improve their living standards compared to pre-project ones.

The main content of a full RAP is the following:

- i. Description of the project;
- ii. Potential impacts;
- iii. Objectives;
- iv. Socioeconomic studies;
- v. Legal framework;
- vi. Institutional framework;
- vii. Eligibility;
- viii. Valuation of and compensation for losses;
- ix. Resettlement measures;
- x. Site selection, site preparation, and relocation;

- xi. Housing, infrastructure, and social services;
- xii. Environmental protection and management;
- xiii. Community participation;
- xiv. Integration with host populations;
- xv. Grievance procedures;
- xvi. Organizational responsibilities;
- xvii. Implementation schedule;
- xviii. Cost and budget; and
- xix. Monitoring and evaluation.

**Annex 2.1** covers the content and structure of the RAP in more detail.

### **6.1.2 Abbreviate Resettlement/Compensation Action Plan (ARAP)**

As mentioned before, if the number of PAPs is less than 200 people, an **Abbreviate Resettlement Action Plan (ARAP)** is required. The general contents of the ARAP are:

- i. A census survey of displaced (economically or physically) persons and valuation of assets;
- ii. Description of compensation and other resettlement assistance to be provided;
- iii. Consultations with displaced people about acceptable alternatives;
- iv. Institutional responsibility for implementation and procedures for grievance redress;
- v. Arrangements for monitoring and implementation; and
- vi. A timetable and budget.

**Annex 2.2** covers the content and structure of the ARAP in more detail.

## **6.2 Considerations to prepare the RAP/ARAP**

Following present some considerations and methodologies that the RAP/ARAP should take into account during the study preparation.

### **6.2.1 Socioeconomic Study**

The purpose of the socioeconomic study is to collect baseline data within the chosen/targeted sites/areas/homesteads/villages, thereby enabling the social impact assessment of potentially affected populations/communities/homesteads/villages. The socioeconomic study should focus on the identification of stakeholders (demographic data), the participation process, identification of affected people (including landowners and users) and impact on their property and their production systems, the institutional analysis, and the system for monitoring and evaluation. When the SATTFP subprojects requires a full RAP, detailed calculation of individual and household economies and identification of all impacts will be undertaken as part of the socioeconomic study and be the determinant in the potential compensation process. Standard characteristics of the affected households include a description of production systems, labor, and household organization; baseline information on livelihoods (including production levels and incomes derived from both formal and informal economic activities); and standards of living and health status of the PAPs. Under this study, a comprehensive baseline census would be conducted to identify potentially affected people on the individual and household levels as well as vulnerable groups (women, children, the elderly, female-headed households, affected internally displaced people, affected internally displaced households, and so forth) and to discourage the inflow of people ineligible for assistance. When the SATTFP subproject requires an ARAP, this socioeconomic study concentrates on specific information as noted in the ARAP guidelines. Qualified social

science consultants from relevant national university will carry the socioeconomic study and baseline census.

### 6.2.2 Cut-off Date

The entitlement cut-off date refers to the time when the assessment of persons and their property in the identified subproject areas is carried out, that is, the time when the RA has identified the land needed and the socioeconomic study is conducted. After the assessment and study, no new cases of affected people will be considered. Unfinished structures would be identified and secured, and unused materials will be piled at the site so that the cut-off survey can estimate investments that should be compensated for in lieu of expenses (including labor) incurred until the cut-off date.

The cut-off date is to be determined at a meeting of the local and traditional leaders and representatives of the RA. The cut-off date must also be communicated effectively to potential PAPs and the surrounding local villages/communities. Because most land users obtain their customary use rights from their local traditional leaders, these leaders will play a crucial role identification of land users potentially due compensation.

The establishment of a cut-off date is required to prevent people from migrating into the selected sites in hopes of receiving compensation. Therefore, establishment of a cut-off date is of critical importance. Because the time period between the cut-off date and the project construction is likely to be anytime from six months on, bearing in mind that work can only begin after PAPs have been compensated and any replacement structures built according to the requirements of this RMF, special attention needs to be taken to secure the sites from opportunistic invasion. These measures should include close consultation with the recognized PAPs, signs that inform the general public of the intended use of the site, security patrols to identify opportunistic invaders, or necessary measures.

The cut-off date is subject to the approval of the District Executive Directors and must be in full compliance with the conflict resolution mechanisms in this RMF.

### 6.2.3 Budget for RAP/ARAP implementation

The socioeconomic study and the estimation of the overall cost of resettlement/compensation will be determined once the technical design/detail of the specific project is known. Some the information required to estimate the budget are: the specific impacts, estimation of PAPs, individual and household incomes, and other demographic data. The RA with the support of the specialized social consultant will prepare the resettlement/compensation budget. This amount should be included as part of the total budget of the project. This budget will be subject to the pre-approval of the RA and the World Bank; and finally for the district authority. Some of the resettlement/compensation items and assumptions that should be consider are shown in the next table:

**Table 4: Potential items of the Resettlement/Compensation Budget**

Item	Costs Unit (MK)	Assumptions
Compensation for loss of land	Per hectare	For land appropriation purposes, based on cost realized in projects involving similar issues in Malawi.
Compensation for loss of crops	Per hectare of farm lost	Includes costs of labor invested and average of highest price of staple food crops as per methods described in the next section.

Item	Costs Unit (MK)	Assumptions
Compensation for pastoralists loss of access	*	Those affected would be provided with shared access or alternate routes (decision made through consultation and participation).
Compensation for loss of access to fishing resources	Per fishmonger	Data provided from revised socioeconomic study will determine market values of catch, fish products, and the like that are produced.
Compensation for buildings and structures	Per m or m2	This would be in-kind compensation. New buildings would be constructed and given to those affected.
Compensation for trees	Per year, per tree	Based on methods described in this RMF.
Cost of relocation assistance/expenses	Per household	This cost is to facilitate transportation and related expenses.
Cost of restoration of individual income	MK	Assumed to be higher than GDP per capita.
Cost of restoration of household income	MK	Through employment in program activities.
Cost of training farmers, pastoralists, other PAP	MK/person	This is a mitigation measure that seeks to involve people affected by project activities.

\* These costs will be confirmed during the socioeconomic study and revised at the time payments are made.

### 6.3 Methodology of valuing affected land and assets

The SATTFP projects will require, in some cases, the use of individual or village lands. Therefore, valuation methods for affected land and assets would depend on the type of asset and subject to customary laws. The RA will compensate for assets and investments, including labor, crops, buildings, and other improvements according to the provisions of the RAP/ARAP. Compensation rates would be market rates as of the date and time that the replacement is to be provided. Market prices for cash crops would have to be determined. Calculations for compensation would not be made after the entitlement cut-off date in compliance with this policy. For community land held under customary law, the permanent loss of any such land will be covered by community compensation, which will be in kind only. However, because OP/BP 4.12 makes no distinction between statute and customary rights, not only assets and investments will be compensated for, but also land. Thus, a customary landowner or land user on state-owned land will be compensated for land, assets, investments, loss of access, and so forth at market rates at the time of the loss.

#### 6.3.1 Compensation for land

Compensation for land is aimed at providing a farmer whose land is appropriated for project purposes with compensation for land, labor, and crop loss. For this reason, and for transparency, "land" is defined as an area or homestead: in cultivation; being prepared for cultivation; or cultivated during the last agricultural season.

This definition recognizes that the biggest investment a farmer makes in producing a crop is in his/her labor. A farmer works on his/her land most of the months of the year. The major input for producing a crop is not seed or fertilizer, but the significant labor put into the land each year by the

farmer. As a result, compensation relating to land will cover the market price of labor invested as well as the market price of the crop lost.

For purposes of measuring land, the unit of measurement should be that used and understood by the affected farmers. Therefore, in rural areas, if a traditional unit of measurement exists, that unit should be used. If a traditional unit of measurement does not exist in a particular area, then it is recommended that land should be measured in meters or any other internationally accepted unit of measurement. However, in such an event, the unit that is being used must be explained to the affected farmers/users and must somehow be related to easily recognizable land features that the communities are familiar with, such as using locations of trees, stumps, and so forth as immovable pegs.

### **6.3.2 Compensation for crops**

The current prices for cash crops have to be determined. All crops are to be compensated using a single rate regardless of the crop grown. This rate incorporates the value of crops and the value of the labor invested in preparing a new land. Determining compensation using a single rate creates transparency because anyone can measure the area of land for which compensation is due and multiply that by a single rate known to all. This approach also allows assignment of values to a previous year's land (land in which a farmer has already invested labor) and land that has been planted but has not yet sprouted. Further, it avoids contention over crop density and quality of mixed cropping. The value of the labor invested in preparing agricultural land will be compensated at the average wage in the community for the same period of time. The rate used for land compensation is to be updated to reflect values at the time compensation is paid.

Crop values will be determined based on:

- A combination of staple foods and cash crops. Specifically, the 80/20 ratio of land that farmers typically have in food crops and cash crops is used to determine the chances they would lose food crop rather than a cash crop income.
- The value of staple crops to be taken as the highest market price (over three years) reached during the year, in recognition of these factors:
  - Although most farmers grow staple crops mainly for home consumption, they always have the option of selling these crops to take advantage of the market.
  - Farmers most often purchase cereals when they run out during the "hungry season," when prices are high. Compensating at a lower value might put the individual or household at risk.
  - Averaging the highest price of staple foods yields a high per hectare value that reimburses for the vegetables and other foods that are commonly intercropped with staples, but are almost impossible to measure for compensation.
- The labor cost for preparing replacement land is calculated on what it would cost a farmer to prepare the replacement land. This value is found by adding together the average costs of clearing, plowing, sowing, weeding twice, and harvesting the crop. Labor costs will be paid in Malawi Kwacha (MK) shillings at the prevailing market rates.

All agricultural labor activities are included for two reasons. First, because of the need for transparency, all land labor will be compensated for at the same rate. Second, it is difficult to forecast when during the growing season a farmer might need to give up his or her land. Thus, the land compensation covers all investments that a farmer will make. In certain cases, assistance may

be provided to land users in addition to compensation payments, for example, if farmers are notified that their land is needed after the agriculturally critical date of March (generic date, may be different in Malawi and across climate zones) when they will no longer have enough time to prepare another land without help. Assistance will be provided in the form of labor-intensive village hires, or perhaps mechanized clearing, so that replacement land will be ready by the sowing dates. Farmers will still continue to receive cash compensation so that they can pay for sowing, weeding, and harvesting.

### **6.3.3 Compensation for building and structures**

Replacing structures such as huts, houses, farm outbuildings, latrines, and fences will make compensation. Any homes lost will be rebuilt on acquired replacement land; however, cash compensation would be available as a preferred option for structures (that is, extra buildings) lost that are not the main house or house in which someone is living. The market price for construction materials will be determined. Alternatively, compensation will be made in kind for the replacement cost without depreciation of the structure. The project will survey these prices for administrative purposes on an ongoing basis.

Compensation will be made for structures that are:

- Abandoned because of relocation or resettlement of an individual or household; or
- Directly damaged by construction activities.

Replacement values will be based on:

- Drawings of the affected individual's house and all its related structures and support services;
- Average replacement costs of different types of household buildings and structures based on collection of information on the number of and types of materials used to construct different types of structures (for example, bricks, rafters, bundles of straw, doors, and so forth);
- Prices of these items in different local markets;
- Costs for transportation and delivery of these items to acquired/replacement land or building site;
- Estimates for construction of new buildings, including required labor.

### **6.3.4 Compensation for sacred sites**

OP/BP 4.12 does not permit the use of land that is defined to be cultural property by the Cultural Properties Safeguard (OP/BP 4.11). Sacred sites include, but are not restricted to: altars, initiation centers, ritual sites, tombs, and cemeteries. They include other such sites or features that is accepted by local laws (including customary), practices, traditions, and cultures as sacred. To avoid any possible conflicts between individuals and/or communities/homesteads/chiefdoms, the use of sacred sites for any project activity is not permitted under the SATTFP.

### **6.3.5 Compensation for vegetables, gardens and beehives**

These include gardens planted with vegetables and ingredients for daily use. Until a replacement garden starts to bear, the family displaced (economically/ physically) as a result of project land appropriation will have to purchase these items in the market. The replacement costs therefore will be calculated based on the average amount that a town dweller spends on buying these items for 1 year per adult in the local market.

Beekeepers place beehives in various locations in the bush. If such hives would be disturbed by the project activities or access to hives is denied, beekeepers can move them and the bees will adapt to

the new locations. Beekeepers would be compensated by the value of one season's production costs of honey for each hive that is moved and any reasonable costs associated with moving the hive.

### **6.3.6 Compensation for horticultural, floricultural and fruits trees**

With Malawi's highly variable weather patterns, water costs, and the fact that much of the land is not suitable for growing fruits, village areas are sparsely populated with certain types of fruit trees.

Given their significance to the local subsistence economy, which this project intends to positively impact, compensated for fruit trees will be based on a combined replacement market value. Fruit trees used for commercial purposes will be compensated at market value based on historical production records. If households chose to resettle, they will be compensated for the labor invested in the trees they leave behind, because they will continue to own the trees left behind under customary rights. It is not uncommon for individuals to own trees in other villages in which they previously lived and, in some cases, continue to harvest fruit from those trees for subsistence purposes and/or to sell to traders. If a household/individual chooses to transfer ownership of the trees, transfer costs will be paid in addition to labor costs. The compensation rate will be based on information obtained from the socioeconomic study. A compensation schedule can be developed incorporating the following goals:

- Replace subsistence fruit production yields as quickly as possible;
- Provide subsistence farmers with trees to extend the number of months of the year during which the fruit are produced and can be harvested as a supplemental source of food for their families;
- Provide farmers with the opportunity to derive additional production income from trees bearing more valuable fruits at off-season periods; and
- Provide cash payments to farmers to replace pre-project income derived from the sale of excess production until replacement trees produce the equivalent (or more) in projected cash income.

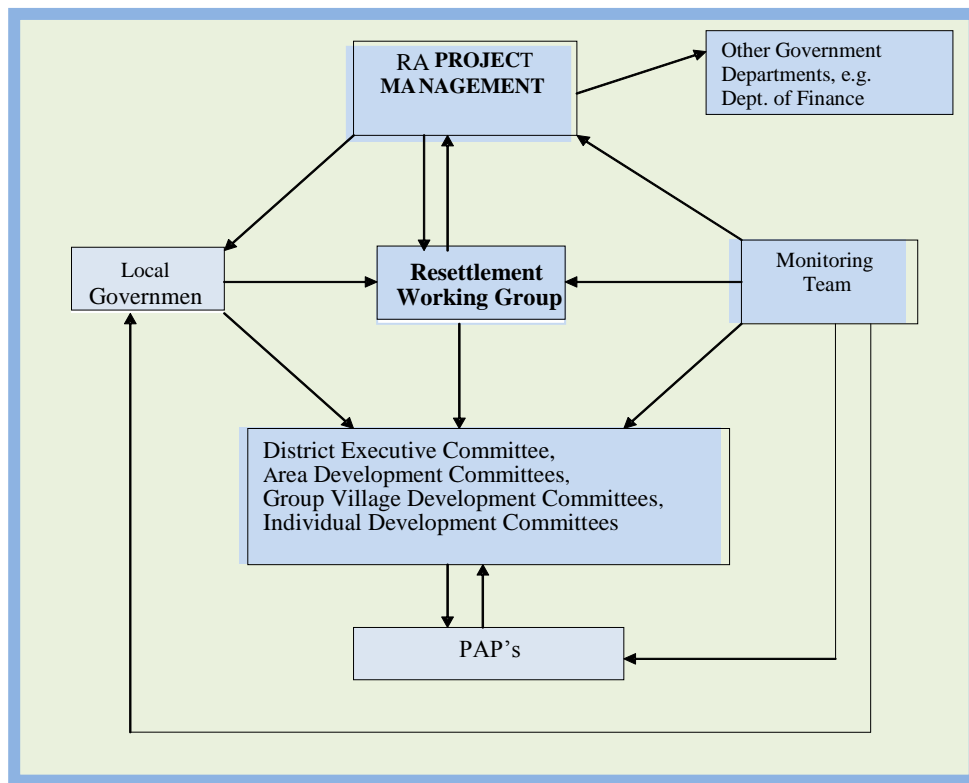
The compensation schedule is based on providing a combination of new grafted and local trees to farmers, as well as cash payments to offset lost yearly income. No compensation will be paid for minor pruning of trees. Compensation for removal of limbs will be pro-rated on the basis of the number of square meters of surface area removed. The total surface area of the tree will be calculated using the following formula:  $(1/2 \text{ diameter of canopy})^2 \times 3.14$  (cm<sup>2</sup> or m<sup>2</sup>).

## **6.4 Institutional arrangement for the RAP/ARAP implementation**

Government being the primary proponent of the project will have the overall responsibility of coordinating the implementation of the resettlement process through the Roads Authority. The Roads Authority will set up a project management team and a team to monitor the resettlement process. The indicators to be monitored are provided in this Report. The actual execution will be done through collaboration with the District Councils (local government) and all the relevant ministries and departments such as the Ministry of Lands, the Ministry of Finance, and the Office of the President and Cabinet. The interactions among the relevant institutions for purposes of managing resettlement and compensation are depicted in Figure 2.

The prepared RAP will be widely circulated by the Roads Authority so that the information is available to all the concerned stakeholders. The contact persons and teams in each ministries will be trained in the required skills if necessary so that the exercise will be done with respect and due care to all affected. Once all the groundwork has been done, the District Commissioners (DC) will monitor implementation of the RAP although the Roads Authority will remain the responsible authority.

**Figure 2: Interactions for the RAP/ARAP implementation**



It is crucial that a Resettlement Working Group (RWG) is formed to interact with the PAPs. It will be constituted in such a manner as to be regarded as the primary representative voice of the affected persons. The RWG will not need to bear a direct relationship to the Area Development Committees/Group Village Development Committees and/or individual Village Development Committees that have already been established. The composition of the RWG will be as follows:

- a. Representatives of the affected communities/villages. This will be made up of two members from each of the Traditional Authorities areas defined as affected. At least one of the two members will be a woman. The PAP will elect these members;
- b. Representatives of the Traditional Authorities in each of the areas affected;
- c. Representatives of RA; and
- d. One representative from each of the Districts. These will be the DC or his representative.

Once the group has been set up they will elect a person/s to be responsible for reporting on their activities to the community. The elected member/s of the RWG will make it a priority to report back to the appropriate development committees to keep them abreast of developments relating to the project. Under the overall authority of its reporting officer, the RWG will have the following functions:

- a. Acting as the primary channel of communication between the various interest groups/organizations involved in the resettlement process. In particular, it will serve to facilitate communication between RA and the affected population; and
- b. Solve amicably any problems relating to the resettlement process. If it is unable to resolve any



such problems, it is to channel them through the appropriate grievance procedures; and

Assume primary responsibility of assisting RA in overseeing the resettlement processes in all phases.

## **6.5 Internal tools for the resettlement/compensation management**

Three resettlement/compensation tools (templates) have been designed for internal use of the RA's Environmental Management Unit (EMU), in order to assure a proper resettlement/compensation management along the "project cycle" and systematize the information to keep records of the process.

The management tools design for the resettlement/compensation management are: (i) Resettlement/Compensation Screening Form (RSF); (ii) Resettlement/Compensation Monitoring Report (RMR); and (iii) Resettlement/Compensation Final Report (RFR). The last two tools was design also for the environmental and social management and are included in the Project Environmental and Social Management Framework (ESMF), but it can also be used for the resettlement/compensation management during the monitoring stage of the plan implementation. In the [Annex 3](#) are included these templates.

### **6.5.1 Resettlement/Compensation Screening Form (RSF)**

During the first stage of the project cycle (preliminary assessment stage) is necessary to confirm if the resettlement/compensation safeguard is triggered and to define the scope of the Resettlement Action Plan if the safeguard is triggered. The internal tool designed for this preliminary analysis is the **Resettlement/Compensation Screening Form (RSF)** and is part of the environmental and social screening process presented in the ESMF. RA should develop it with the support of EMU.

The main objectives of the resettlement/compensation screening process are: to confirm if the resettlement/compensation safeguard is triggered; and to determine the scope of the Resettlement/compensation Action Plan (RAP/ARAP) required for the specific SATTFP Project.

The RSF template is presented in the [Annex 3.1](#).

### **6.5.2 Resettlement/Compensation Monitoring Report (RMR)**

This second internal tool, the **Resettlement/Compensation Monitoring Report (RMR)**, should be used during the RAP implementation, in order to follow-up the compliance of the Plan. This tool should be applied by the RA with the support of the EMU, and should be used each time that EMU visits the subproject area in order to follow-up the RAP implementation. The numbers of visits depends of the subproject requirements.

The RMR template is presented in the [Annex 3.2](#).

### **6.5.3 Resettlement/Compensation Final Report (RFR)**

Once the RAP has been completed, this third internal tool **Resettlement/Compensation Monitoring Report (RMR)** should be developed by the RA with the support of the EMU, in order to review and confirm that the RAP was completed properly.

The RFR template is presented in the [Annex 3.3](#)

## Chapter 7: Main aspects during the Resettlement/Compensation

Before a SATTFP specific project is implemented, in the cases that the resettlement/compensation safeguard is triggered, the PAPs needs to be compensated in accordance with this RMF. For activities involving land appropriation or loss or denial or restriction to access, it is further required that these measures include compensation and other assistance required for relocation, prior to displacement, and preparation and provision of resettlement sites with adequate facilities, where required. Specifically, appropriation of land and related assets may take place only after compensation has been paid and, where applicable, resettlement sites and moving allowances have been provided to displaced persons.

When the RA presents the RAP/ARAP to the District Commissioner for approval, part of the screening process used to approve recommended land includes confirming that the RAP/ARAP contain acceptable measures compliant with OP/BP 4.12 that link resettlement activity to civil works. The timing mechanism of these measures would ensure that no individual or affected household would be displaced (economically or physically) due to civil works activity before compensation is made and resettlement sites with adequate facilities are prepared and provided for the individuals or homesteads affected. Before the local and national authorities approve the RAP/ARAP, the RA should send the RAP/ARAP to the World Bank for review, comments, and “no objection”.

### 7.1 Public Participation

Public consultation and participation are essential because they afford potential PAPs the opportunity to contribute to the design and implementation of the activities and reduce the likelihood of conflicts between PAPs and the RA. Malawi’s current land administration methods, based on long standing traditional and cultural practices, make public consultation with rural communities essential. Furthermore, because rural communities are the intended ultimate beneficiaries of the project, an effective consultation with them is a prerequisite for project success. Therefore to ensure success, public consultation with potentially affected individuals, households, or homesteads should be a high priority when there are resettlement and compensation concerns.

Public consultation should begin at the start of the planning stage, when potential land sites are being considered. A participation strategy should ideally, and in practice, provide multiple opportunities for involvement. Therefore, as a matter of strategy, public consultation should be an ongoing activity taking place throughout the entire project cycle. For example, public consultation should also occur during the preparation of the (i) the socioeconomic study; (ii) the RAPs; (iii) the environmental impact assessment; and (iv) during the drafting and reading of the compensation contract.

Public participation and consultation should occur through multiple formats, including meetings; radio programs; requests for written proposals/comments; completion of questionnaires/application forms; public readings and explanations of project ideas and requirements; and dissemination of public documents at the national, local, and homestead levels at suitable locations such as official residences or offices of local chiefs and elders. These formats should account for the low literacy levels prevalent in rural communities and allow sufficient time for responses and feedback.

Notwithstanding the value of broad public participation, the best guarantors for public interest are the chiefs and other local leaders who are responsible members of their local communities and can also be part of the potentially displaced (economically or physically) individuals and households.

The village chief would have a key role in the monitoring the public participation process, and in the overall monitoring and evaluation mechanism of the project.

## **7.2 Notification**

The respective district and local administration leaders, who were involved in identifying the land required by the developer, will notify the local and community leaders and representatives who will help identify and locate the land users. These community leaders and representatives will also be charged with the responsibility of notifying their members about the established cut-off date and its significance. The land users will be informed through both a formal notification in writing and, for as many people as are illiterate, by verbal notification delivered in the presence of the village chief or his representative. In addition, the chief, religious leaders, other elders, and individuals who control pastoral routes, fishing areas, wild trees, beehives, or hunting areas will accompany the survey teams to identify sensitive areas.

## **7.3 Documentation of holdings and assets**

Local community leaders and officials representing the RA will arrange meetings with PAPs to discuss the compensation process. For each individual or household affected, representatives of the IA complete a compensation dossier containing necessary personal information on the affected party and those that he or she claims as household members, total land holdings, inventory of affected assets, and information for monitoring their future situation. This information is confirmed and witnessed by the regional land board, traditional leaders, or their representatives.

Dossiers will be updated and include documentation on lands surrendered. This is necessary to ensure that the PAPs can be monitored over time. All claims and assets will be documented.

## **7.4 Agreement on compensation and preparation of contracts**

All types of compensation are to be clearly explained to the individual and households involved. The RA draws up a contract listing all property and land surrendered and the types of compensation (cash and/or in kind) selected. A person selecting in-kind compensation has an order form that must be signed and witnessed. The compensation contract and the grievance redress mechanisms are read aloud in the presence of the affected party, the regional land board representative, and local community leaders prior to signing.

All property surrenders (such as land and buildings) and compensation payments will be made in the presence of the affected party, traditional and local community leaders, officials of the developer, and representatives of the local district administration.

## **7.5 Grievance Mechanism**

Once the RAP/ARAP is approved and the individual/household/community compensation contract has been signed, PAPs should be informed of the process for expressing dissatisfaction and seeking redress. The grievance procedure should be simple administered at the local levels if possible to

facilitate access and flexible recognizing that most people are illiterate to ensure that people receive a prompt and fair resolution of their grievances.

The RA, as a party to the contract, would not be the best official instance to receive, process, and rule on disputes. Therefore, taking these concerns into account, all grievances concerning nonfulfillment of contracts, levels of compensation, or seizure of assets without compensation should be addressed to the local ward leaders for resolution.

If a complaint pattern emerges, the RA, district, and regional administrators, along with the chiefs, will discuss possible remediation. Negotiation and agreement by consensus will provide the first avenue to iron out and resolve any grievances expressed by the individuals, the land owners or households whose land and properties might be affected. Local leaders will be required to give advice concerning the need for revisions to procedures. Once necessary and appropriate changes are agreed upon and officially written up, the developer, district and regional administrators, chiefs, and homestead representatives and leaders will be responsible for communicating a description of the changed process to future potential PAPs at the beginning of the consultation process. The procedure for handling grievances should be as follows.

- a. The affected person should file his grievance in writing, to the Village Leader. The grievance note should be signed and dated by the aggrieved person. Where the affected person is unable to write, he should obtain assistance to write the note and emboss the letter with his/her thumbprint.
- b. The Village Leader should notify the Grievance Committee and respond within 14 days during which any meetings and discussions to be held with the aggrieved person should be conducted. If the grievance relates to valuation of assets, an independent valuer should be requested to revalue the assets, and this may necessitate a longer period of time. In this case, the Village Leader must notify the aggrieved person that his/her complaint is being considered.
- c. If the aggrieved person does not receive a response or is not satisfied with the outcome within the agreed time, s/he may lodge his/her grievance to the District Commissioner.
- d. The Grievance Committee will then attempt to resolve the problem (through dialogue and negotiation) within 14 days of the complaint being lodged. If no agreement is reached at this stage, then the complaint can be taken through the formal court process.

## 7.6 Monitoring and Evaluation

The RA through the EMU will be the responsible for the follow-up and monitoring of RAP/ARAP implementation. To facilitate this task the EMU should use the internal tool **Resettlement/Compensation Monitoring Report (RMR)** described in the previous section 6.5.2.

The purposes of this RMR are:

- Alerts authorities to the RAP/ARAP implementation;
- Assure the compliance of the RAP/ARAP during its implementation;
- Reports any grievances that require resolution; and
- Documents timely completion of project resettlement obligations (that is, payment of the agreed sums, construction of new structures, and so forth) for all permanent and temporary losses, as well as unanticipated, additional construction damage.

The EMU will be responsible for periodically reporting to RA managers on the RMR results, so that the RA is promptly aware of any difficulties arising at the local level.

Once the RAP/ARAP has been completed, a final review is required in order to assure that the plan has been properly implemented. To facilitate this task the EMU should use the **Resettlement/Compensation Final Report (RFR)** that was described in the section 6.5.3.

The purposes of this RFR are to verify if:

- PAPs have been compensated in full before start of project works; and
- PAPs are now living at the same or better standard than before the project proposed.

This RFR should be approved by the RA in the cases of RAP and ARAP, and by the World Bank (No Objection) in the cases that the project requires a RAP (Classification A). The approval of this RFR is the “green light” to start with the projects execution.

In order to follow-up and monitor the RAP/ARAP implementation, a number of indicators will be used to determine the status of affected people (compared to pre-project, land being used, standard of house, level of participation in project activities, how many kids in school, health standards, and others). Therefore, the RAPs/ARAPs will set three major socioeconomic goals by which to evaluate success:

- i. Affected individuals, households, and communities are able to maintain their project standard of living, and even improve on it;
- ii. Local communities remain supportive of the project; and
- iii. Absence or prevalence of conflicts.

The indicators in the next table will be used to monitor and evaluate the implementation of resettlement and compensation plans.

**Table 5: Verifiable Indicators for M&E**

<b>Monitoring</b>	<b>Evaluation</b>
Outstanding compensation or resettlement contracts not completed before next agricultural season	Outstanding individual compensation or resettlement contracts
Communities unable to set village-level compensation after two years	Outstanding village compensation contracts
Grievances recognized as legitimate out of all complaints lodged	All legitimate grievances rectified
Pre-project production and income (year before land used) versus present production and income of resettles, off-farm-income trainees, and users of improved agricultural techniques	Affected individuals and/or households compensated or resettled in first year who have maintained their previous standard of living at final evaluation
Pre-project production versus present production (crop for crop, land for land)	Equal or improved production per affected household/homestead
Pre-project income of vulnerable individuals identified versus present income of vulnerable groups.	Higher post-project income of vulnerable individuals

Source: Authors' compilation.

## Chapter 8: Resettlement/compensation management

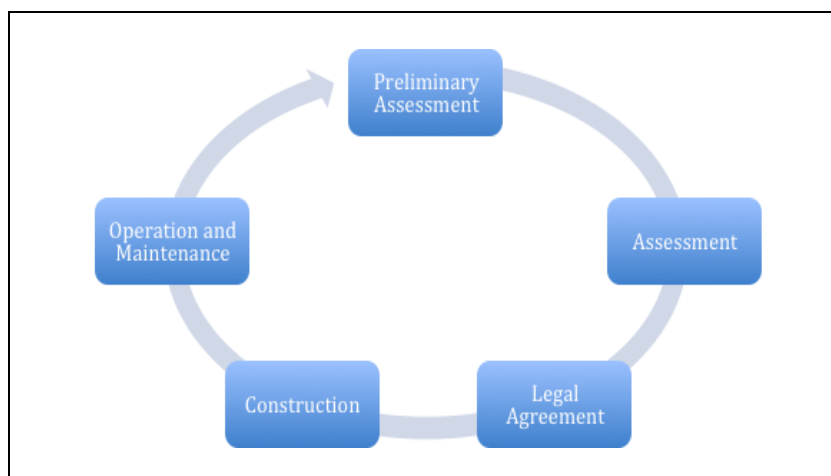
The overall purpose of this section is to present the internal procedures and activities of the resettlement/compensation management that the Environmental and Management Unit (EMU) should develop along the project cycle, in order to assure the application of the RA's Resettlement Management Framework (RMF). As mentioned before, the instance responsible for the RMF implementation in the SATTFP will be the EMU.

Following present some activities that the EMU should do during the "project cycle" in order to assure the application of the RMF in the SATTFP subprojects.

### 8.1 Environmental and social Project Cycle

The resettlement/compensation management should be developed in the next stages: Preliminary Assessment, Assessment, Legal Agreement, and Plan implementation stages, before the project construction. In these stages the responsible for the resettlement/compensation management must develop some activities in order to assure the compliance of the national law and the OP/BP 4.12.

Figure No. 3: Project Cycle



Source: Environmental Management Unit (EMU)

### 8.2 Environmental and social stakeholders: Role and responsibilities

The stakeholders involved in the resettlement/compensation management are:

- **The Ministry of Land, Housing and Urban Development:** is responsible for providing the regulatory direction for the implementation of resettlement activities. In liaison with the District Commissioner through the District Lands Office, the Ministry will monitor the implementation of all resettlement activities to ensure compliance with policies enshrined in policy documents under this project.

- **The RA's Environment Management Unit** will ensure coordination of all implementing agencies of the resettlement activities and to assure the compliance of this Resettlement Management Framework (RMF). The Unit will be the direct contact for the World Bank Safeguard Team.
- The **District, Towns and Villages Councils Authorities** are the government instance responsible to approve the RAP/ARAP.
- The **Social Consultants** are the responsible for the RAP/ARAP preparation in order to comply with the national law and the Bank's safeguards policies.
- The **Constructors** are the parties responsible to assure that before start with the works the RAP/ARAP must be implemented. In some cases, the constructors may be the responsible of the ARAP/RAP implementation.
- The **Community** beneficiary of the projects but affected by the works.
- The **Development Partners**, especially the World Bank is the responsible for follow up the compliance of the Bank's Involuntary Resettlement Policy (OP/BP 4.12). The project that requires a RAP (Category A) requires also the Bank's "no objection" at different stages of the project cycle. The project that requires an ARAP (Category B) requires the EMU (RA) approval at different stages of the project cycle.

### 8.3 Resettlement/Compensation Management along the Project Cycle

The resettlement/compensation management includes all the activities that the RA, through its EMU should develop during the project cycle, to ensure that the PAPs are meaningfully consulted, have participated in the planning process, and are adequately compensated to ensure that their livelihood is restored or improved and that the process has been fair and transparent. Following presents the main management activities along the project cycle:

#### 8.3.1 Stage 1: Preliminary assessment

- a. Once the RA identifies the subprojects that will develop, the EMU prepares the Environmental and Social Screening Form (ESSF)<sup>17</sup>, which include the **Resettlement/Compensation Screening Form (RSF)**. The main purpose of the RSF is to confirm if the OP/BP 4.12 is triggered in the specific project; and if triggered, how is the magnitude and complexity of the resettlement/compensation issue (RAP or ARAP according with the section 6.1);
- b. When the OP/BP 4.12 is triggered, the EMU (RA) should send the ESSF including the **RSF** to the the RSF to the Bank for its review and comments. The projects classified as Category A for the resettlement/compensation issue, requires the Bank's No Objection;
- c. Once the RSF was approved by the Bank and RA, the EMU prepares Terms of Reference (TORs) to hire the consultant to develop the study (RAP or ARAP);
- d. The RAP/ARAP TORs for a projects Classified as A and B, should be reviewed by the RA. Projects classified as A (RAP) requires WB No Objection.

---

<sup>17</sup> The ESSF is the first internal tool for the environmental and social management including in the Environmental and Social Managements Framework (ESMF) of the SATTFP.

### 8.3.2 Stage 2: Assessment

- Based on the ToRs approved in the previous stage, the RA hire the specialize consultant to prepare the RAP/ARAP;
- The EMU of the RA follow-up the study preparation and assure that the consultant include as part of the activities to prepare the document all the consideration including in the Chapter 7;
- The RA received the draft RAP/ARAP and send to the EMU for review and comments. The studies for Category A, the RA send the RAP (Category A) to the WB for No Objection;
- Once the RA received comments on the studies and these are included in the final documents, the RA approved the study and send to the Ministry of Lands, Housing and Urban Development to obtain its approval.

### 8.3.3 Stage 3: Bid process and legal agreement

- Once the Ministry of Lands, Housing and Urban Development has approved the RAP/ARAP, the RA has two ways for the RAP/ARAP implementation: a) with its own resources contract a specialized consultant for the RAP/ARAP implementation; or b) include as part of the work contract the RAP/ARAP implementation; and
- The EMU review and support the preparation of the legal contract for the RAP/ARAP implementation.

### 8.3.4 Stage 4: RAP/ARAP implementation

- During the RAP/ARAP implementation the EMU follow-up and monitor the plan activities in order to assure the compliance of this RMF. To conduct this follow-up and document this activity the EMU will use the second internal management tool designed in this RMF, which is the **Resettlement/Compensation Monitoring Report (RMR)**. The purpose of the RMR is to record observations from the field visit and any resulting recommendations. The RMR will be used each time that the EMU makes a field visit; the number of visits depends on the magnitude and complexity of the resettlement/compensation issue;
- The EMU should send the RMR to the RA Managers for a Category A and B; and the RA should send the RMR of the Category A project to the WB for review and no objection; and
- Once the RAP/ARAP implementation has been completed, the RA with the support of the EMU should develop the third management tool, the **Resettlement/Compensation Final Report (RFR)**, in order to review and confirm the correct implementation of the Plan.

### 8.3.5 Stage 5: Construction

- The works construction cannot start until the RAP/ARAP has been implemented and the RA and WB have approved the RFR in the cases of Category A (RAP) projects; and by the RA in the cases of perprojects classified as B (ARAP).



## References

- Government of Malawi (2002), **Malawi National Land Policy**, Ministry of Lands, Physical Planning, and Surveys.
- Government of Malawi (1995), **The Constitution of Republic of Malawi**.
- Government of Malawi (1988), **Town and Country Planning Act**, Department of Town and Country Planning.
- Government of Malawi (1965), **Land Act**. Department of Lands and Valuation.
- Government of Malawi (1967), **Land Acquisition Act**. Department of Lands and Valuation
- Government of Malawi (1998) **Local Government Act**. Ministry of Local Government and Rural Development
- Government of Malawi (1997) **Forestry Act**. Ministry of Forestry, Fisheries and Environmental Affairs.
- World Bank Group (2004) **Involuntary Resettlement Policy**, Washington.
- Roads Authority (2014) **Environmental And Social Management Framework for Southern African Trade and Transport Facilitation Project**, Lilongwe, Malawi

## **ANNEXES**



# Annex 1: Consultation process and list of participants



## ATTENDANCE LIST

Workshop for Environmental and Social Management Framework (ESMF) and a Resettlement Policy Framework (RPF) for the Southern African Trade and Transport Facilitation (Malawi) Project, 24<sup>TH</sup> September, 2014, Capital Hotel, Lilongwe

Page 1/3

NAME	ORGANISATION	E-Mail Address	Phone Number
1 H.K. Gwero	MoT & Mj	gowero@yaho.com	088525406
2 K. Kafatia	EAD TCE Chair	Kentkafatia@gmail.com	088531575
3 C. Chilipa	World Bank	crusachilipa@worldbank.org	0883347805
4 Ok Kwamsama	MAIWD	okkwamsama@gmail.com	0999 110 437
5 John Massa	MAIWD - DRC	massajj@gmail.com	0888876161
6 Emmanuel Matipa	Roads Authority	ematipa@ra.org.mw	0888543922
7 Martin Mankwete	World Bank	Raunimankwete@worldbank.org	—
8 Kachage Fido	"	kando@worldbank.org	—
9 Suzwa Mchizwa	World Bank	simahizwa@worldbank.org	—
10 Z Kafakoma	TSP/RUD	robertkafakoma@gmail.com	088842875

	NAME	ORGANISATION	E-Mail Address	Phone Number
11	Marc Zambrano	WBS	myzambano@radar.co	
12	Allan Kaziputa	Roads Authority	akaziputa@ra.org.mw	0888 639 441
13	H.M. Khumwinda	Local Govt	hmrskhumwinda@yahoo.co.uk	0999913696
14	Simo Sibole	ETA	simosibole@yahoo.co.uk	0999272192
15	Ephraim Boti	Depr Lands	ephraimbota@yahoo.co.uk	0884394639
16	Isaac Kunleyana	Roads Authority	ikunleyana@ra.org.mw	0888 843913
17	Chimwemwe Kus	MeTPO	Chimwemwe.kus@metpo.gov.mw	0999396471
18				
19				
20				
21				
22				
23				
24				
25				

## Annex 2: Tools for Resettlement/Compensation Management

### 2.1 Resettlement/Compensation Screening Form

If in Section 5 of the ESSF, the information about the Involuntary Resettlement is “checked”, the next form should be applied.

## RESETTLEMENT/COMPENSATION SCREENING FORM

Probable Involuntary Resettlement Effects	Yes	No	Not known	Possible	Remarks
– Will the project include any physical construction work?					
– Does the project include upgrading or rehabilitation of existing physical facilities?					
– Is any project effect likely lead to loss of housing, other assets, resource use, or incomes/livelihoods? Estimated number?					
– Is land appropriation likely to be necessary? Estimated area?					
– Is the site for land appropriation known?					
– Is the ownership status and current usage of the land known?					
– Will easements be utilized within an existing right of way?					
– Are there any people without land titles who live or earn their livelihood at the site or within the right of way? Estimated Num.?					
– Will there be loss of housing? Estimated number?					
– Will there be loss of agricultural plots?					
– Will there be losses of crops, trees, or fixed assets?					
– Will there be loss of businesses or enterprises?					
– Will there be loss of incomes and livelihoods?					
– Will people lose access to facilities, services, or natural resources?					
– Will any social or economic activities be affected by land use–related changes?					
<b>If involuntary resettlement impacts are expected:</b>					
– Are local laws and regulations compatible with the World Bank’s Involuntary Resettlement Policy?					
– Will coordination with the RA be required to deal with land appropriation?					
– Does the IA retain sufficient skilled staff for resettlement planning and implementation?					
– Are training and capacity-building interventions required prior to resettlement planning and implementation?					
<b>Information on affected persons:</b>					
– Any estimate of the likely number of households that will be affected by the project?					Number: __
– Are any of the households poor, headed by a woman, or vulnerable to poverty risks?					Number: __
– Are any of the PAP from vulnerable groups? If yes, explain:					Number: __

#### Involuntary Resettlement/Compensation Classification:

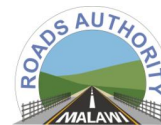
After reviewing the answers above, the project team leader and social development/resettlement specialist agree, subject to confirmation, that the project is categorized as noted below.

- [ ] **Classification A** Significant resettlement impact (more than 200 people affected), Full Resettlement/Compensation Action Plan (RAP) is required.
- [ ] **Classification B** Limited resettlement impact (less than 200 people affected), Abbreviated Resettlement Action Plan (ARAP) is required.
- [ ] **Classification C** o resettlement impact, No resettlement plan is required.

## 2.2 Resettlement/Compensation Monitoring Report

# RMR

## RESETTLEMENT/COMPENSATION MONITORING REPORT



<b>Name of the project</b>			
<b>Implementing Agency:</b>			
<b>Component of SATTFP:</b>	<input type="checkbox"/> Component 1 <input type="checkbox"/> Component 2 <input type="checkbox"/> Component	<b>Project Category:</b>	<input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C

<b>Location:</b>	- <b>Region:</b>			
	- <b>District</b>			
	- <b>City/Village:</b>			
<b>Evaluator name:</b>		<b>Sign:</b>	<b>Date:</b>	

### a. People participating in the site visit:

Name	Institution	Charge	Sign
1.			
2.			
3.			

### b. Status of the legal and safeguards compliance:

- What type of studies the subproject required during the preparation phase? ESIA, ESMP, RAP, ARAP, Others.
- The RAP/ARAP has the approval of the RA and WB?
- The RAP/ARAP has the District/Town/Village Council Authority approval?
- The RAP/ARAP was disclosed? Date of disclose.

### c. Status of the RAP/ARAP implementation

- Which date was the starting day of the RAP/ARAP implementation?
- Which date is expecting to finalize the RAP/ARAP implementation?
- Which is the percent (%) of the RAP/ARAP implementation?
- The construction works starts before the RAP/ARAP was completed or implemented?

### d. Social effects observed in the field visit

Summary of the social effects observed in the field visit for the resettlement:

- Predicted effects and nature of observation; and
- Unpredicted effects and nature of observation.

### e. Compliance of the RAP/ARAP specification

Analysis of how the responsible of the plan implementation is complying with the RAP/ARAP.

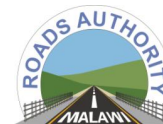
### f. Conclusions and recommendations

Recommended, when is a necessary, corrective measure for the responsible of the plan implementation, in order to take into account the problems observed during the site visit.

## 2.3 Resettlement/Compensation Final Report

# RFR

## RESETTLEMENT/COMPENSATION FINAL REPORT



<b>Name of the project</b>			
<b>Implementing Agency:</b>			
<b>Component of SATTFP:</b>	<input type="checkbox"/> Component 1 <input type="checkbox"/> Component 2 <input type="checkbox"/> Component	<b>Project Category:</b>	<input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C

<b>Location:</b>	- <b>Region:</b>			
	- <b>District</b>			
	- <b>City/Village:</b>			
<b>Evaluator name:</b>		<b>Sign:</b>	<b>Date:</b>	

On (date) \_\_\_\_\_, the final review of the RAP ( ) or ARAP ( ) corresponding to the project \_\_\_\_\_ was conducted to verify fulfillment of the resettlement/compensation activities proposed for the project in the RAP/ARAP, as well as to ascertain if other negative impacts have appeared during the period in which the RAP/ARAP implementation took place. There was content the commission integrated by the following persons:

Name	Institution	Charge	Sign
1.			
2.			
3.			

### a. Background

Capture case record including dates, brief narration of the problem, and recommendations from previous site visits.

### b. Results of the review

Describe in detail the conditions in which the resettlement/compensation activities were developed, the grade of fulfillment, and current state, explaining when necessary reasons why measures have not been completed. Completing the table below will help visualize this information.

No.	Resettlement/Compensation activity	Accomplishment			Time still needed to accomplish measures	Observations
		Yes	No	%		

### c. Conclusions and recommendations

Based on the examination, prepare conclusions regarding fulfillment of the mitigation measures and recommendations.





### **Annex 3: Resettlement/Compensation Management Instruments**

#### **3.1 Resettlement/Compensation Action Plan (RAP)**

The scope and level of detail of the Resettlement/Compensation Action Plan (RAP) will vary based on the magnitude and complexity of resettlement. The plan is based on up-to-date and reliable information about the proposed resettlement and its impacts on displaced persons and other adversely affected groups and the legal issues involved in resettlement. The full RAP should cover elements listed here, when any element is not relevant to project circumstances, it should be noted in the plan.

##### **1. Subproject Description**

Provide general description of the project and identification of the project area.

##### **2. Potential Impacts**

Identify (i) the project component or activities that give rise to resettlement assets affectation, (ii) the zone of impact of such component or activities, (iii) the alternatives considered to avoid or minimize resettlement, and (iv) the mechanisms established to minimize resettlement, to the extent possible, during subproject implementation.

##### **3. Objectives**

Provide the main objectives of the resettlement plan.

##### **4. Socioeconomic Studies**

Provide findings of the socioeconomic studies conducted in the early stages of project preparation with the involvement of potentially displaced people, including:

The results of a census survey covering:

- (i) Current occupants of the affected area to establish a basis for design of the resettlement program and to exclude subsequent inflows of people from eligibility for compensation and resettlement assistance;
- (ii) Standard characteristics of displaced households, including a description of production systems, labor and household organization, and baseline information on livelihoods (including, as relevant, production levels and income derived from both formal and informal economic activities) and standards of living (including health status) of the displaced population;
- (iii) The magnitude of the expected loss, total or partial, of assets, and the extent of displacement, physical or economic;
- (iv) Information on vulnerable groups or persons for whom special provisions may have to be made;
- (v) Provisions to update information on PAP's livelihoods and standards of living at regular intervals so that the latest information is available at the time of their displacement.

Other studies describing:

- (i) Land tenure and transfer systems, including an inventory of common property natural resources from which people derive their livelihoods and sustenance, non-title-based usufruct

systems (including fishing, grazing, or use of forest areas) governed by local recognized land allocation mechanisms, and any issues raised by different tenure systems in the subproject area;

- (ii) The patterns of social interaction in the affected communities, including social support systems, and how they will be affected by the subproject;
- (iii) Public infrastructure and social services that will be affected; and
- (iv) Social and cultural characteristics of displaced communities, including a description of formal and informal institutions such as community organizations, ritual groups, and NGOs that may be relevant to the consultation strategy and to designing and implementing resettlement activities.

## **5. Legal Framework**

The findings of a legal framework analysis covering:

- (i) The scope of the power of eminent domain and the nature of compensation associated with it, in terms of both the valuation methodology and the timing of payment;
- (ii) The applicable legal and administrative procedures, including a description of the remedies available to displaced persons in the judicial process and the normal timeframe for such procedures, and any available alternative dispute resolution mechanisms that may be relevant to resettlement under the subproject;
- (iii) Relevant law (including customary and traditional law) governing land tenure, valuation of assets and losses, compensation, and natural resource–usage rights, customary personal law related to displacement, and environmental laws and social welfare legislation;
- (iv) Laws and regulations relating to the agencies responsible for implementing resettlement activities;
- (v) Gaps, if any, between local laws covering eminent domain and resettlement and the World Bank's resettlement policy, and the mechanisms to bridge such gaps; and
- (vi) Any legal steps necessary to ensure the effective implementation of resettlement activities under the project, including, as appropriate, a process for recognizing claims to legal rights to land, including claims that derive from customary and traditional usage.

## **6. Institutional Framework**

The findings of any analysis of the institutional framework covering:

- (i) The identification of agencies responsible for resettlement activities and NGOs that may have a role in subproject implementation;
- (ii) An assessment of the institutional capacity of such agencies and NGOs; and
- (iii) Any steps that are proposed to enhance the institutional capacity of agencies and NGOs responsible for resettlement implementation.

## **7. Eligibility**

Definition of displaced persons and criteria for determining their eligibility for compensation and other resettlement assistance, including relevant cut-off dates.

## **8. Valuation of and Compensation for Losses**

The methodology for valuing losses to determine their replacement cost, a description of the proposed types and levels of compensation under local law, and necessary supplementary measures to achieve replacement cost for lost assets.

## **9. Resettlement Measures**

Describe the packages and other resettlement measures that will assist each category of eligible displaced persons to achieve the objectives of OP/BP 4.12. In addition to being technically and economically feasible, the resettlement packages should be compatible with the cultural preferences of the displaced persons and prepared with their input and participation.

## **10. Site Selection, Site Preparation, and Relocation**

Describe alternative relocation sites considered and explain reason for selection, including:

- (i) Institutional and technical arrangements for identifying and preparing relocation sites, whether rural or urban, for which a combination of productive potential, location advantages, and other factors is at least comparable to the advantages of the old sites, with an estimate of the time needed to acquire and transfer land and ancillary resources;
- (ii) Any measures necessary to prevent land speculation or influx of eligible persons at the selected sites;
- (iii) Procedure for physical relocation under the project, including timetables for site preparation and transfer; and
- (iv) A legal arrangement for regularizing tenure and transferring titles to resettles.

## **11. Housing, Infrastructure, and Social Services**

Plans to provide (or to finance resettles provision of) housing, infrastructure (for example, water supply, feeder roads), and social services to host populations and any necessary site development, engineering, and architectural designs for these facilities.

## **12. Environmental Protection and Management**

Describe the boundaries of the relocation area, the assessment of the environmental impacts of the proposed resettlement, and measures to mitigate and manage these impacts (coordinated as appropriate with the environmental assessment of the main investment requiring the resettlement).

## **13. Community Participation**

Describe the involvement of resettles and host communities, including:

- (i) Describe the strategy for consultation with and participation of resettles and hosts in the design and implementation of resettlement activities;
- (ii) A summary of the views expressed and how these views were considered in preparation of the resettlement plan;
- (iii) A review of the resettlement alternatives presented and the choices made by PAP regarding their available options, including choices regarding: types of compensation and resettlement assistance; relocating as individual families or as parts of pre-existing communities or kinship groups; sustaining existing patterns of group organization; or retaining access to cultural property (for example, places of worship, pilgrimage centers, or cemeteries); and
- (iv) Institutionalized arrangements by which PAP can communicate their concerns to project authorities throughout planning and implementation, and measures to ensure that vulnerable groups such as indigenous people, ethnic minorities, the landless, and women are adequately represented.

## **14. Integration with Host Population**

Describe measures to mitigate the impact of resettlement on any host communities, including:

- (i) Consultations with host communities and local governments;
- (ii) Arrangements for prompt tendering of any payment due to hosts for land or other assets provided to resettles;
- (iii) Arrangements for addressing any conflict that may arise between resettles and host communities; and
- (iv) Any measures necessary to augment services (for example, education, water, health, and production services) in host communities to make them at least comparable to services available to resettles.

## **15. Grievance Procedures**

Describe the affordable and accessible procedures for third-party dispute resolution for resettlement issues. Grievance mechanisms should consider the availability of judicial recourse and community and traditional dispute settlement mechanisms.

## **16. Organizational Responsibilities**

Provide the organizational framework for implementing resettlement, including identification of agencies responsible for delivery of resettlement measures and provision of services; arrangements to ensure appropriate coordination between agencies and jurisdictions involved in implementation; any measures (including technical assistance) needed to strengthen implementing agencies' capacity to design and carry out resettlement activities; provisions for the transfer to local authorities or resettles the responsibility for managing facilities and services provided under the project and for transferring other such responsibilities from the resettlement implementing agencies, when appropriate.

## **17. Implementation Schedule**

Provide an implementation schedule covering all resettlement activities from preparation through implementation, including target dates for realization of expected benefits to resettles and hosts and termination of various forms of assistance. The schedule should indicate how the resettlement activities are linked to the implementation of the overall project.

## **18. Cost and Budget**

Provide itemized cost estimates for all resettlement activities, including allowances for inflation, population growth, and other contingencies; a timetable for expenditures; sources of funds; arrangements for the timely flow of funds; and funding for resettlement, if any, in areas outside the jurisdiction of the implementing agencies.

## **19. Monitoring and Evaluation**

Provide arrangements for: monitoring of resettlement activities by the implementing agency, supplemented by independent monitors as considered appropriate by the World Bank, to ensure complete and objective information; performance monitoring indicators to measure inputs, outputs, and outcomes for resettlement activities; involvement of PAP in the monitoring process; evaluation of the impact of resettlement for a reasonable period after all resettlement and related development activities have been completed; use of resettlement monitoring results to guide subsequent implementation.

### 3.2 Abbreviated Resettlement/Compensation Action Plan (ARAP)

#### 1. Introduction

An abbreviated plan covers the following minimum elements:

- (i) Description of the event that causes displacement;
- (ii) A census and socioeconomic survey of displaced households and/or businesses;
- (iii) Impacts caused by displacement;
- (iv) Valuation of assets;
- (v) Description of compensation and other resettlement assistance to be provided;
- (vi) Consultations with displaced people about acceptable alternatives;
- (vii) Timetable;
- (viii) Budget;
- (ix) Institutional responsibility for implementation and procedures for grievance redress;
- (x) Arrangements for monitoring and evaluation.

#### 2. Statement of Problem

Describe the project activities that will cause displacement and efforts made to reduce the number of people to be displaced. Describe the site and the services currently available (schools, places of worship, public transportation, health posts, markets, and the like) and their distance from the site.

#### 3. Legal Framework

Brief review of local laws, regulations, and procedures on land appropriation and resettlement. In case there are gaps between local laws and World Bank policy, describe ways to bridge these gaps.

#### 4. Census and Socioeconomic Survey of Affected Properties, Families, and/or Businesses

##### Properties (goods and assets affected)

Household number (i)	Business number (ii)	Name of household head or business owner	Plot area	Description of houses and constructions	Uses of the property (housing, economic activity)	Level of affectation (total, partial, minimum) (iii)	Tenure status (titled owner, owner without documents, tenant, sharecropper) (iv)	Appraisal value	Comments

(i) Households should be defined as commensal units that is, people who eat out of the same pot.

(ii) Business should be defined as any economic activity.

(iii) Check "partial" in the case of people that can develop the current activity; if not, check "total."

(iv) If they are not owners, include the name and address of the owner.

##### Socioeconomic Characteristics of Families

Household number	Name of household head	No. of persons in household	No. of children < 13 years of age	No. of adults +60 years of age	No. of students	Sources of income	Place of work or study and distances	Time living in the affected property	Comments

##### Socioeconomic Characteristics of Businesses

Business number	Name of business owner	Age of business owner	Type of activity	Number of employees	Average monthly income	Destination of production	Place of selling	Time of affected business	Comments

## 5. Impacts Caused by Displacement

Household or business number	Loss of land	Loss of house or business place	Loss of income	Loss of access to educational services	Loss of access to health services	Loss of access to public services	Loss of social networks	Loss of economic networks	Comments

## 6. Proposed Assistance to Resettled Families

Description of type of assistance to be provided to PAP, terms of agreement with PAP, indication of willingness of PAP to work with discussed assistance and timetable.

- Describe how incomes will be restored or enhanced;
- Special attention on people who are aged, invalids, single mothers, or otherwise in need of special assistance;
- Describe how access to services will be restored or enhanced;
- Describe measures to re-establish socioeconomic networks; and
- Describe possible impacts on host groups and measures implemented to avoid rejection or other negative reaction.

### *Types of assistance*

- Compensation and assistance for resettlement; and
- Resettlement to new housing.

### *Agreed Solutions*

Household or business number	Resettlement solution	Comments

## 7. Responsible Agency

Provide name of entity that will be responsible for implementation and monitoring of activities involved in relocation process. Describe the task team; analyze its capacity to implement the plan or measures to strengthen team.

## 8. Source of Budget and Cost Estimate

Include cost of land, housing, moving costs, administrative costs, moving allowances, settle-in allowances. Describe budget sources.

## 9. Resettlement Schedule

Description of activities involved, dates, budget, and comments including any follow-up activities to ensure PAP have been able to reestablish their livelihoods/living situation. This schedule should be aligned with the schedule for design and construction of the civil works.

Activities	Dates	Budget	Comments
Planning of census and surveys			
Information to people affected			
Conduct census and socioeconomic survey			
Analysis of data and identification of impacts			
Definition of assistance measures			
Serve official notice			
Relocation/assistance			
Follow-up visit with responsible agency			

## 10. Monitoring and Evaluation

Institution responsible should follow up on plan implementation and readdress any activity as necessary to achieve goals.