



National Water and Electricity Company



Government of The Gambia

THE GAMBIA ELECTRICITY RESTORATION AND MODERNIZATION PROJECT (GERMP)

RESETTLEMENT POLICY FRAMEWORK

**Prepared for Government of The Gambia
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ABBREVIATIONS AND ACRONYMS

AIDS	Acquired Immune Deficiency Syndrome
DLS	Department of Lands and Surveys
DPPH	Department of Physical Planning and Housing
ESFP	Environmental and Social Focal Point
EIA	Environmental Impact Assessment
EIB	European Investment Bank
EMP	Environmental Management Plan
ESS	(EIB) Environmental and Social Standard
ESSC	Environmental and Social Screening Checklist
ESMF	Environmental and Social Management Framework
EU	European Union
GBA	Greater Banjul Area
GEAP	Gambia Environment Action Plan
GERMP	Gambia Electricity Restoration and Modernization Project
GGRC	GERMP Grievance Resolution Committee
GoTG	Government of The Gambia
HIV	Human Immunodeficiency Virus
HV	High Voltage
IDA	International Development Association
LACA	Land Acquisition and Compensation Act
LGA	Local Government Authorities
MOA	Ministry of Agriculture
MOLRG	Ministry of Lands and Regional Governments
MW	Mega Watt
NARI	National Agricultural Research Institute
NAWEC	National Water and Electricity Company
NEA	National Environment Agency
NGO	Non- Governmental Organization
OP	(WB) Operational Procedures
PAP	Project Affected Person
PCU	Projects Coordination Unit
RAP	Resettlement Action Plan
ROW	Right of Way
RPF	Resettlement Policy Framework
T & D	Transmission & Distribution
WB	World Bank

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DEFINITION OF TERMS USED IN THE REPORT

Unless the context dictates otherwise, the following terms shall have the following meanings:

“Alkalo”: The administrative head of the village usually from the founding family /clan of the village

“An Environmental Impact Assessment (EIA)”: An environmental assessment instrument to identify and assess major potential environmental impact of proposed sub projects, evaluate alternatives and design appropriate mitigation, management and monitoring measure.

“Bantaba” means an open space in the village where people meet to discuss village matters

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

“Compensation” means the payment in kind, cash or other assets given in exchange for (1) the acquisition of land including structures and fixed assets thereon, or (2) use of that land.

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

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

“District” means an area demarcated under the Local Government Act 2002 and it is the administrative unit immediately below the Region

“District Authority” means the district authority established under section 132 of the Local Government Act 2002. The District Authority is responsible for managing the affairs of the district

“District Tribunal” means subordinate court at district level that handles customary matters such as land under customary tenure.

“Involuntary Displacement” means the involuntary acquisition of land resulting in direct or indirect economic and social impacts caused by: Loss of benefits from use of such land; relocation

or loss of shelter; loss of assets or access to assets; or loss of income sources or means of livelihood, whether or not the Displaced Persons has moved to another location; or not.

“Involuntary Land Acquisition” is the repossession of land by government or other government agencies for compensation, for the purposes of a public project against the will of the landowner. The landowner may be left with the right to negotiate the amount of compensation proposed. This includes land or assets for which the owner enjoys uncontested legal rights including customary

“Kabilo”: A collection of families that constitute a village

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

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

“Local Authority” includes the council and the District Authority

“Local Government Authority” means a council established under the Local Government Act 2002

“Market Value” means the most probable selling price or the value most often sought by buyers and sellers.

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

“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 Displaced Persons to improve their living standards, income earning capacity and production levels; or at least maintain them at pre-Project levels.

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

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

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

“The Resettlement Policy Framework (RPF)” has been prepared as an instrument to be used throughout the NAWEC Project (GERMP) implementation. The RPF will set out the resettlement and compensation policy, organizational arrangements and design criteria to be applied to meet the needs of the people who may be affected by the program. The **Resettlement Action Plans (“RAPs”)** for the NAWEC Project will be prepared in conformity with the provisions of this RPF.

“Seyfo”- the administrative head of a district sometimes referred to as District Chief

The Republic of The Gambia together with the International Development Association (IDA), European Investment Bank (EIB), and European Union (EU), collectively the “Lenders”, is preparing a new energy project called The Gambia Electricity Restoration and Modernization Project (GERMP). The Project will increase the power generation capacity of the National Water and Electricity Company (NAWEC), and improve the efficiency of its transmission network and ability to absorb variable renewable energy. It will increase the generation capacity through renewable sources, and reinforce the NAWEC’s transmission capacity in the Great Banjul Area (GBA).

With a total cost of approximately \$140 million, GERMP consists of five components as follows:

Component 1 consists of development of a 10-20 MW on-grid solar photo voltaic (PV) plant, which potentially will include battery back up to minimize grid absorption concerns. A 23ha plot of land capable of hosting at least 20 MW of solar PV panels or alternatively, 3-4 plants of 3-6MW, (giving a total new capacity in similar range) will be built closer to demand centres for power generation.

Component 2 will involve installation of about 30km of high voltage (HV) 132kV T&D lines; the establishment of a new dispatch center with SCADA; upgrades to existing primary and secondary substations, and other T&D investments.

Component 3 is to develop off-grid solar PV plants with battery backup in schools (up to 700) and health clinics (up to 100) in the country. Preliminary estimates suggest that the system design would likely range from approximately 5-10 kW for schools, 10-30kW for clinics, and 50-100 kW for hospitals, and that the system design would need to be specific to the needs of each facility.

Component 4 will involve institutional strengthening and project implementation support related to improved operational performance of NAWEC.

Component 5 will finance short-run activities such as emergency communications campaigns, replacement of incandescent bulbs in government offices and street lights with LED bulbs, and urgent equipment rehabilitation.

In the implementation of this Project, involuntary resettlement may arise when people lose their land, assets and access to assets, their income and livelihoods with or without physical relocation. The effect of these losses on the persons living or working in the project zone could mean increased poverty unless measures are put in place to compensate them for the losses incurred.

It is in this regard that this Resettlement Policy Framework (RPF) is prepared. Its main objective is to provide a screening process, for the GERMP project activities, to ensure that where land acquisition for project activities is inevitable, resettlement and compensation processes for the lost land and associated assets are conceived and executed in a sustainable manner.

The principles and resettlement measures which will be applied to relevant GERMP sub-components will be in accordance with the laws of the Republic of The Gambia and this RPF which is in compliance with World Bank Operational Procedure 4.12 and EIB Standards 6, 7 and 10 on

Involuntary Resettlement, the Rights and Interests of Vulnerable Groups and Stakeholder Engagement respectively.

Compensation can be in kind, in cash or both. Land acquired, shall preferably be compensated in kind in accordance with the Constitution of the Republic of The Gambia 1997 and the World Bank Safeguard Policy OP 4.12 and EIB Standard 6 on Involuntary Resettlement. Buildings and other structures are to be compensated in cash using replacement cost. Other valuation methods have been presented for trees and crops. Resettlement and compensation shall be the responsibility of the Government of The Gambia / NAWEC.

The following approach will be adopted, to ensure that the safeguards instruments prepared for the project are compliant with safeguards standards for all lenders.

For activities to be jointly co-financed by World Bank and EIB, World Bank Safeguards Policies will apply. Where the requirements of EIB Safeguard Policies are more stringent, these will also be applied in addition to World Bank policies.

For activities financed by blended financing between EIB and the EU, the EIB safeguards policies will apply.

Field visits and consultations with potential Project Affected Persons (PAPs) were carried out to discuss the GERMP and to tap the PAP's knowledge on key social information. In addition, the consultations provided a platform for PAPs to discuss their opinions and concerns amongst others.

Key informant interviews and consultations were also undertaken with relevant Government agencies and Non-government agencies which include NAWEC, the National Environment Agency and other partner institutions to discuss the potential roles they may be required to play in the implementation of the RPF.

Grievances resulting from resettlement and compensation shall be referred to the proposed GERMP Grievance Resolution Committee (GGRC), to be resolved using traditional and administrative mechanisms, and where these are inadequate, the law courts at community, regional and national levels.

Evaluation and monitoring are important components of the RPF and subsequent RAPs, and shall be carried out throughout the project cycle for feedback to the relevant stakeholders for timely, corrective measures where necessary.

The RPF and RAPs shall be widely disclosed. This will include distribution of as many copies as possible to different institutions and communities for comments and suggestions. The document will also be distributed to individuals and community leaders such as Members of the National Assembly, Regional Governors; Seyfolu; Alkalolu amongst others. For international disclosure, the NAWEC and World Bank websites will be used.

In view of the limited capacity identified in managing safeguards effectively, it is recommended to provide capacity building measures to strengthen the ability of NAWEC and partners relevant to the GERMP, for successful implementation of the RPF and RAPs. The Project Coordination Unit shall include a fulltime social safeguards specialist to be supported by NAWEC regional staff that have been identified and trained as safeguards focal points.

The estimated cost for the implementation of the RPF is indicated in the following Table.

S/No.	Activity	Cost (US \$)	Financing	
			NAWEC/GoTG	IDA
1	Preparation of the RAP	50,000		X
2	Implementation of the RAP - compensation of loss of assets and revenue, relocation of PAP, assistance to vulnerable groups and contingencies	1,500,000	X	
3	Supervision of the monitoring by NEA	2,500		X
4	One day training workshop for staff of NAWEC and partner agencies on requirements and roles	2,500		X
5	Information and public awareness	2,500		X
6	Training of project partners on social and environmental safeguards (NEA, NAWEC, EIA Working Group, LGA & Community representatives etc.)	10,000		X
7	Monitoring and Evaluation	20,000		X
	Total	1,587,500	1,500,000	87,500

CHAPTER 1: INTRODUCTION

With support from the International Development Association (IDA), the European Investment Bank (EIB) and European Union (EU), The Gambia Government intends to improve the power generation and transmission capacity of the National Water and Electricity Company (NAWEC). In this process it is preparing a new energy project called “The Gambia Electricity Restoration and Modernization Project (GERMP)”, which will specifically involve electricity generation through renewable sources (solar energy); reinforcement of transmission capacity in the Great Banjul Area (GBA) and expansion of off-grid electricity access to schools and health centers, across the country, and institutional strengthening.

1.1 Project Objectives and Components

The GERMP’s overall objective is to increase the power generation capacity, and to improve the efficiency of NAWEC’s transmission network and ability to absorb variable renewable energy. With a total cost of approximately \$140 million, GERMP consists of five components, as follows:

Component 1 (IDA / EIB financing): Development of a 10-20 MW solar photo voltaic (PV) plant. This will consist of an on-grid PV plant, which potentially will include battery back up to minimize grid absorption concerns. There are various options being considered through the project feasibility studies: either one large plant capable of hosting up to 20 MW of solar PV panels for power generation, or alternatively, 3-4 plants of 3-6MW, (giving a total new capacity in similar range) will be built closer to demand centers. The advantage of the latter option is that there would be reduced losses, and reduced impact of grid absorption issues. However, it would increase the number of sites required which may be a challenge.

Component 2: This component will involve some activities to be financed by IDA and EIB including installation of about 30km of transmission and distribution lines between Brikama and Kotu, establishment of a new dispatch center with SCADA, upgrades to existing primary and secondary substations, and prepayment meters. Activities to be financed with blended EIB / EU financing include construction of MV lines in the provinces. The feasibility study for this

component will evaluate different line routing options to minimize social and environmental impacts.

Component 3: Development of off-grid solar PV plants. This will include solar PV plants with battery backup in schools (up to 700) and health clinics (up to 100) in the country.

Preliminary estimates suggest that the system design would likely range from approximately 5-10 kW for schools, 10-30kW for clinics, and 50-100 kW for hospitals/clinics. It is likely that system design would need to be specific to the needs of each facility. The systems would also be designed in such a way so as to allow smooth integration with the grid (for facilities already connected to the grid, and those that will be connected in the future).

Component 4: This GERMP component will involve institutional strengthening and project implementation support related to improved operational performance of NAWEC.

Component 5: Financing of short run activities such as emergency communications campaigns, LED bulbs to replace incandescent bulbs in government offices and 5,000 street lights, and urgent equipment rehabilitation.

1.2 Project Components likely to Trigger Involuntary Resettlement

1.2.1 Component 1: Development of on-grid solar fields

This activity will require land, and NAWEC has indicated that one option could be on a 23ha plot of land capable of taking at least 20 MW of solar PV panels.

As a possible alternative, NAWEC has indicated a second option of having three to four sites for plants with the capacity of 3-6MW each, giving a total new capacity in similar range. However, these sites were not known at the time of the study which makes an RPF necessary.

With respect to the off-grid solar fields, this is not expected to trigger any involuntary resettlement as the potential beneficiary institutions have enough land in their premises for construction of the solar panels. This was confirmed in all the sites visited during the study.

1.2.2 Component 2: Transmission and Distribution Network

i. High Voltage (HV) Transmission Lines-132kV

HV overhead transmission lines will be installed for an estimated distance of 30 km. The routing of the line needs to be confirmed through a feasibility study. However, any chosen corridor may be occupied by trees, residential and commercial structures, or other social activities. It may be

possible to avoid some encroachments in the design by ensuring maximum flexibility to avoid resettlement, and taking account of the horizontal distance between transmission poles for the 132 kV lines which is estimated between 250-300 meters.

ii. Substations

Voltage step down for distribution to customers shall take place at the proposed SCADA dispatch center, secondary substations, and use of strategic pole mounted transformers.

In principle, once the need for a new substation within a general area has been established based on system planning, NAWEC will carry out a screening process to identify land of suitable size to host the substations. Safeguard policies will be triggered where there is involuntary resettlement by this activity of the Project.

iii. Underground 11kV Cables

Should the proposed 132kV transmission lines run on the same side of the corridor as existing lines, particularly low voltage, NAWEC may consider relocating the existing lines underground. This exercise may result to losses including temporary loss of earnings for businesses during the time when the cables will be laid underground. There is also the potential for relocation when corridor occupiers have to move from their current location on a permanent basis to another area. However, it is important to highlight that in line with World Bank Policies and EIB Standards, resettlement should be avoided to the extent possible.

1.3 Methodology

In developing the RPF the following approach was adopted:

1.3.1 Desktop Review

This consisted of the review of relevant documentation (both print and electronic) made available. These include similar RPF reports and documents, and relevant national legislations; the reviews provided information on the national legislations that regulate land related issues in the country, with particular reference to compulsory land acquisition. The review also took account of the guidelines set out by both the World Bank (OP 4.12) and the European Investment Bank (ESS 6, 7 and 10) on involuntary resettlement and related issues.

1.3.2 Field visits and consultations with potential PAPs

The visits and the consultations provided the opportunity to:

- see the potential project intervention sites and to discuss with the local communities about the project and its requirements for land;
- provide information about the GERMP and to tap PAP's information on key social information on potential sites;
- provide opportunities to PAPs to discuss their opinions and concerns
- describe the process of promoting consultation/participation of affected populations and stakeholders in resettlement preparation and planning
- identify specific interests and to highlight potential roles and responsibilities of stakeholders and ensure their participation.



Figure 1: Cross-section of potential PAPs meeting with consultants

1.3.3 Key informant interviews and consultations

This activity comprises interviews and consultations with relevant Government agencies and Non-Government agencies which include NAWEC (Figure 2), Ministry of Lands and Regional Governments, the National Environment Agency and other partner institutions to discuss the potential roles they may be required to play in the project, particularly in the implementation of the RPF.



Figure 2: Meeting with NAWEC staff at the Office of Manager, Electricity - NAWEC

A summary of the key issues discussed with key stakeholders is attached as Annex 2 and the list of the persons met is in Annex 3.

1.4 Scope

The objective of the Resettlement Policy Framework (RPF) for the GERMP is to establish the conditions under which land acquisition and resettlement will take place and outline the principles and procedures to be followed, in the event that an infrastructural investment involves impacts and losses associated with its implementation. This will ensure that no individual, household and community in the target areas will be worse off due to development by This Project. This process will be inclusive, to encompass vulnerable social groups and guarantee that they receive equitable treatment.

CHAPTER 2: OBJECTIVES AND JUSTIFICATION OF RESETTLEMENT POLICY FRAMEWORK

2.1 Objectives and the basic terms of preparation of the RPF

Involuntary resettlement arises when people lose their land, assets and access to assets, their income and livelihoods, with or without physical relocation. The effect of these losses on the persons living in the project zone would be increased poverty, unless measures are put in place to compensate them for the losses incurred. The objective of this Resettlement Policy Framework (RPF) is to provide a screening process, for the GERMP activities, to ensure that where land acquisition for the project activities is inevitable, resettlement and compensation processes for the lost land and associated assets are conceived and executed in a sustainable manner. The Resettlement Policy Framework document establishes policies, principles, institutional arrangements and indicative budgets to carry out the resettlement activities based on the national legislations of the Government of the Gambia and policies of the Project's lenders.

This entails providing sufficient investment resources to meet the needs of the persons affected and/or displaced from their habitat and resources. It also requires adequate collaborative consultation and agreement with the project affected persons to ensure that they maintain or improve their livelihoods and standards of living in the new environment.

2.2 Justification for the Resettlement Policy Framework

An RPF is prepared because the actual sites of the infrastructural activities of the project are not known. The RPF will specify the policies, principles and procedures that will govern the mitigation of adverse socio-economic impacts induced by the GERMP.

The guiding principle for land acquisition shall be that where land is required for implementation of the investment program of NAWEC, appropriate safeguards shall be observed to avoid or reduce the negative impacts of land acquisition on the affected community members.

This framework shall be used in all GERMP project sites with built-in mechanisms for resolving any forms of disputes on land acquisition. The RPF is presented in a comprehensive manner so as to guide and ensure that all conditions of population displacement or loss of socio-economic benefits are taken into account during formulation of the RAPs.

2.3 Impact of the Project on People, Assets and Livelihoods

As the actual sites and size of land requirements for the various sub-components is not known, it is not possible to give an estimate of the persons to be affected. This is why an RPF is being prepared now to cater for any eventuality. Figure 3 illustrates an example for consideration,

where similar installation of T&D infrastructure under this Project may require permanent displacement for space/land, or temporarily for safe operations during works.



Figure 3: Electric poles with transformer near residential and commercial activities

CHAPTER 3: REGULATORY AND INSTITUTIONAL FRAMEWORK FOR INVOLUNTARY RESETTLEMENT

Land acquisition and involuntary resettlement programs of the Project are governed by national laws and policies, as well the World Bank safeguard policy OP 4.12 and EIB standards 6, 7 and 10.

3.1 Land Administration in The Gambia

The Ministry for Lands and Regional Governments is the main Government agency responsible for the administration of land in The Gambia. The Ministry is supported in this role by two key technical departments; the Department of Lands and Surveys and the Department of Physical Planning and Housing. The former is responsible for the survey, mapping and demarcation of national and international boundaries and government layouts whereas the latter is responsible for ensuring the rational and equitable utilization of the available land resources. In addition to these two institutions, there is the Land Commission which is provided for in the Constitution (Article 192). The Commission, in co-ordination with relevant public agencies and government institutions, manages lands vested in the state and provides advice to the Minister on land matters.

The main Acts relating to land administration since the colonial period are the Lands (Regions) Act 1945 and the State Lands Act 1991 which covers Banjul, the entire Kombo St. Mary as well the districts of Kombo North, South and Central in the West Coast Region. There are also the Physical Planning and Control Act 1991, and the Surveys Act 1991; Local Government Act, 2002; Land Use Regulations 1995; Lands Commission Act 2007; State Lands Regulations 1995; and the Development Control Regulations, 1995.

3.2 Land Tenure in The Gambia

Land tenure in both the provinces and the state land areas fall under two main categories:

1. Informal tenure comprising of Customary; and
2. Formal tenure comprising of State Ownership, Leasehold and Free hold.

Customary or traditional tenure is an interest or title which a member of the larger community acquires in the communal land. It is an interest which is held as of right by virtue of being a member of the community. The member who holds such interest has the right of beneficial occupation; unfettered use (subject to the laws of the country). Upon death, the interest devolves on his/her successors in title ad infinitum. This form of tenure is mostly prevalent in the Provinces.

State owned lands are public lands which have been specifically acquired by the Government under an appropriate enactment using the state powers of eminent domain. Currently, the relevant legal instrument is the State Lands Act of 1991, which provides for the compulsory

acquisition for public purposes or in the public interest. Under such ownership the rights become vested in the Government which can then proceed to dispose of the lands by ways such as issuing leases and certificates of allocation to the relevant beneficiary state institutions as well as private individuals and organizations.

Lease hold tenure involves the execution of a lease between individual(s) and the Government/District Authority for a period of twenty one years for provincial lands and ninety-nine years in the state lands area. It is an interest in land for a specified period. Various terms and conditions may be imposed by the grantor including the payment of rent as consideration for the grant.

Free hold tenure is the highest form of ownership with no term limits and is only created by express grant from the Government. It is a rare form of tenure which confers absolute ownership of the land and it exist mainly in Banjul and the immediate suburbs.

3.3 Gambian Laws on Compulsory Land Acquisition

In addition to the Lands (Regions) Act and the State Lands Act, the other relevant national laws with respect to compulsory land acquisition, compensation and resettlement are the:

- The Constitution of the Republic of the Gambia, 1997
- the Land Acquisition and Compensation Act, 1991

3.3.1 The Constitution of the Republic of the Gambia

The Constitution of the Republic of Gambia (1997) recognizes and upholds the principle of private ownership of lands. Although the State has the inherent right of compulsory acquisition, the Constitution clearly states that this can only be done in public interest. Section 22 of the Constitution states that *“No property of any description shall be taken possession of compulsorily, no right over or interest in any such property shall be acquired compulsorily in any part of The Gambia, except:*

Sub Section 1(a) “The taking of possession or acquisition is necessary in the interest of defence, public safety, public order, public morality, public health, town and country planning or the development or utilization of property in such a manner as to promote public benefit;” and

Sub Section 1(b) “the necessity therefore is such as to afford reasonable justification of the causing of any hardship that may result to any person having any interest in or right over the property;”

Sub Section 1(c) provides for the prompt payment of fair and adequate compensation and aggrieved persons have a right of access to a court or other impartial and independent authority for redress. Sub Section (4) expressly stipulates that where the compulsorily acquisition involves the displacement of any inhabitant who occupy the land under customary law; the Government shall resettle them on suitable alternative land with due regard to their economic wellbeing, social and cultural values.

An important provision in the Constitution (Section 6) provides for the giving back of lands to the owners when such lands are not used for the purpose for which they were compulsorily acquired in the public interest.

3.3.2 The Land Acquisition and Compensation Act (LACA) 1991

This Act provides the legal basis for the acquisition of property by the state for public/ planning purpose. Section 3 of the Act provides that all land acquired under the provisions of the Act shall be designated as state land and shall be administered under the provisions of the State Lands Act 1991. Section 4 empowers the Minister to acquire any property for public/planning purpose paying such consideration or compensation as may be agreed upon or determined in accordance with the Act.

Section 11 of the Act provides for compensation for land acquired under LACA. In computerizing the compensation, the market value of the property is taken. The open market value means the best price at which an interest in property might reasonably be expected to be sold at the time of valuation. The method often used to determine the open market value is the cost of replacement method. This method is based on the current cost of construction of the structures and improvements, including design, supervision, financing costs depreciated to reflect the remaining useful life and the state of repairs of the structure.

In its practical implementation, whenever land is required for public purpose, the Land Administration Board may enter upon and survey such land for the purpose of ascertaining whether the land is suitable for the purpose for which it is required as well as to determine and mark out its boundaries.

When the Minister of Lands and Regional Governments directs that any such land is to be acquired under this Act, notices are given to all persons having interest or claiming to be entitled to the land following a reasonable enquiry for the purpose. By such notice, which must be published in the Gazette at least once, such persons shall be asked to yield up possession of the land specified in the notice after the expiration of a specified period of time, which shall not be less than six weeks from the date of the notice. It is only after the expiration of the period specified in the notice that Government can be entitled to enter into and take possession of the land.

Dispute Resolution under the LACA

The Land Acquisition and Compensation Act provides that all disputes and disagreements on compensation or title can be settled by arbitration or the Supreme Court. These include claims made after 21 days from the date of the notice, unsatisfactory evidence to support claims or any disagreement between a land owner/occupier and the Board.

All cases of disputed interest or title, except those held under customary occupation, may be referred to arbitration with the consent of the land owner. For land under customary tenure, disputes shall be referred to the relevant District Tribunal.

All cases of disputes that are not settled by either arbitration or a District Tribunal shall be determined by the Supreme Court through a summons taken out by either the Attorney General or by any person holding or claiming any interest in the land to be acquired. The Supreme Court shall also have jurisdiction to hear all other cases of disputes arising from compulsory acquisitions.

3.4 WB and EIB Safeguard Policies on Involuntary Resettlement

The following approach will be adopted, to ensure that the safeguards instruments prepared for the project are compliant with safeguards standards for all lenders.

For activities to be jointly co-financed by World Bank and EIB, World Bank Safeguards Policies will apply. Where the requirements of EIB Safeguard Policies are more stringent, these will also be applied in addition to World Bank policies.

For activities financed by blended financing between EIB and the EU, the EIB safeguards policies will apply.

3.4.1 WB OP 4.12: Involuntary Resettlement

The World Bank policy on involuntary resettlement OP4.12, which was revised in 2013, indicates the processes and procedures required to be followed where people have to lose property, means of livelihood or where they experience a change in their standard of living as a result of the implement a World Bank financed project. Thus, this policy provides the guidelines for the manner and timelines for payment of all compensations. It also recommends that due consultations be undertaken with all stakeholders of the project before, during and after project implementation with special attention to disadvantaged groups (women, children and the disabled) within the population.

Consistent with World Bank policies, the International Finance Corporation (IFC) guidelines for the preparation of a Resettlement Action Plan (RAP), requires the following to be put into consideration:

- i) Involuntary resettlement should be avoided, or minimized, as much as possible, by considering all feasible options including viable alternative project designs. Where involuntary resettlement is unavoidable, all people affected by it should be compensated fully and fairly for lost assets.
- ii) Involuntary resettlement should be seen and undertaken accordingly as an opportunity for improving the livelihoods of the affected people.

- iii) All people affected by involuntary resettlement should be consulted and involved in resettlement planning to ensure that the mitigation of adverse effects as well as the benefits of resettlement are appropriate and sustainable.

The Bank's Policies require that the RPF be;

- a) prepared before project appraisal;
- b) made widely available and circulated in The Gambia before project appraisal, at publicly accessible locations and in a form that the potential PAPS can understand; and
- c) also made available on the Bank's website.

The RPF can be revised as necessary during the entire life of the project. All revisions must be approved by the Bank.

3.4.2 EIB Environmental and Social Standards (ESS) 6, 7 and 10

Based on its lending strategy and objectives, as well as its experience in financing projects throughout the world, the EIB developed the *EIB Statement on Environmental and Social Principles and Standards*, to set out the policy context for the protection of the environment and human well-being. This framework Handbook seeks to promote the EU approach to environmental and social issues so as to provide an operational translation of those policies, principles and standards.

Volume I of the Handbook provides standards for 10 thematic areas covering the full scope of environmental, climate and social impacts. In this regard, the Environmental and Social Standards (ESS) ESS 6, ESS 7 and ESS 10 specifically provide guidelines in implementing projects requiring land acquisition, expropriation and/or restrictions on land use, resulting to involuntary resettlement. This is the temporary or permanent resettlement of people from their original places of residence or their economic activities or subsistence practices when affected persons and communities do not have the choice to refuse such displacement.

However, because of the huge impacts such resettlements may have, displacements must be duly appreciated and its impact and remedy carefully planned and executed to avoid any negative impacts it may have on the economic and social well-being of affected people. Income sources can be irreparably lost, people can be relocated to environments where their skills may be less applicable and monetary compensation may not be sufficient to prevent long-term hardship or disadvantage.

Consequently, involuntary resettlement should be avoided as much as possible by exploring alternative project designs and locations. If it is unavoidable, involuntary resettlement should be

undertaken with the full consultation and involvement, in the decision-making process, of all stakeholders, including the affected people. In particular, adequate measures must be adopted to minimize and mitigate its adverse impacts from an early stage.

Resettlement is a process to assist those displaced to replace their housing, assets, livelihoods, land, access to resources and services, and to improve or at least restore their socioeconomic and cultural conditions to those levels existing prior to the project. In this regard, the rights and interests of vulnerable groups need to be given particular attention and consideration.

ESS 6: Involuntary Settlement aims at guiding a resettlement programme by ensuring achievement of the following objectives:

- i) Avoid or, at least minimise, project-induced resettlement whenever feasible by exploring alternative project designs;
- ii) Avoid and/or prevent forced evictions and provide effective remedy to minimise their negative impacts should prevention fail;
- iii) Ensure that any eviction which may be exceptionally required is carried out lawfully, respects the rights to life, dignity, liberty and security of those affected who must have access to an effective remedy against arbitrary evictions;
- iv) Respect individuals', groups' and communities' right to adequate housing and to an adequate standard of living, as well as other rights that may be impacted by resettlement;
- v) Respect right to property of all affected people and communities and mitigate any adverse impacts arising from their loss of assets, or access to assets and/or restrictions of land use, whether temporary or permanent, direct or indirect, partial or in their totality. Assist all displaced persons to improve, or at least restore, their former livelihoods and living standards and adequately compensate for incurred losses, regardless of the character of existing land tenure arrangements (including title holders and those without the title) or income-earning and subsistence strategies;
- vi) Uphold the right to adequate housing, promoting security of tenure at resettlement sites;
- Vii Ensure that resettlement measures are designed and implemented through the informed and meaningful consultation and participation of the project-affected people throughout the resettlement process; and,
- vii) Give particular attention to vulnerable groups, including women and minorities, who may require special assistance and whose participation should be vigilantly promoted.

In the context of involuntary resettlement, the plight of the vulnerable must be given due consideration. In this regard, EIB consider the vulnerable as individuals and/or groups who are at a higher risk of being unable to anticipate, cope with, resist and recover from project-related risks

and/or adverse impacts. This group of PAPs may include women, children, the elderly, the poor, people living with HIV/AIDS or ethnic and other minorities.

Thus, *ESS 7: Rights and Interests of Vulnerable Groups* aims at safeguarding vulnerable groups by ensuring achievement of the following objectives:

- i) To avoid or minimise, or otherwise mitigate and remedy, potential harmful effects of EIB operations to vulnerable individuals and groups whilst seeking that these populations duly benefit from such operations. Consequently, the Standard proposes a framework and tools to address inequalities and other factors contributing to vulnerability, and, as appropriate, to allow for equal access to and enjoyment of project benefits for those individuals and groups;
- ii) Affirm, respect, and protect the rights and interests of vulnerable individuals and groups throughout the project lifecycle;
- iii) Adopt a gender-sensitive approach to the management of environmental and social impacts;
- iv) Identify and avoid adverse impacts of EIB operations on the lives and livelihoods of vulnerable individuals and groups;
- v) Ensure that vulnerable individuals and groups are duly identified in EIB operations; and
- vi) Enable vulnerable groups, to benefit from EIB-financed operations.

ESS 10: Stakeholder Engagement seeks to provide adequate stakeholder consultation and engagement so as to ensure that the views, interests, and concerns of project affected communities and other interested stakeholders are heard, understood, and taken into account throughout the project lifecycle.

Thus, Standard 10 outlines a systematic approach to stakeholder engagement that the promoter is expected to build and maintain by way of a constructive relationship with relevant stakeholders.

ESS 10 therefore aims at providing the necessary environment for public participation in the decision-making process throughout the preparation, implementation and monitoring phases of the project with the following specific objectives in mind:

- i) Establish and maintain a constructive dialogue between the promoter, the affected communities and other interested parties throughout the project life cycle;
- ii) Ensure that all stakeholders are properly identified and engaged;

- iii) Engage stakeholders in the disclosure process; engagement and consultations in an appropriate and effective manner throughout the project lifecycle, in line with the principles of public participation, non-discrimination and transparency;
- iv) Ensure that the relevant stakeholders, including commonly marginalised groups on account of gender, poverty, educational profile and other elements of social vulnerability, are given equal opportunity and possibility to voice their opinions and concerns, and that these are accounted for in the project decision-making; and,
- v) Duly verify and assess that the quality and process of engagement undertaken by third parties on the project conform to the provisions included in the present standard.

3.4.3 Comparative Analysis of Gambian Laws with WB OP 4.12 and EIB ESS 6

This section gives a comparison of the requirements of World Bank OP 4.12, EIB ESS 6 and Gambian legislation on compulsory land acquisition and compensation, the Land Acquisition and Compensation Act, 1990. This gap analysis is summarized in Table 1 and the principal findings from this analysis are as follows:

Gambian law addresses some of the requirements of both OP 4.12 and ESS 6 policies but equally a lot of gaps do exist. The similarities include:

- i) It is generally accepted by the three policies that those losing land or property should be properly compensated and that compensation should be assessed at replacement value.
- ii) Notification of compulsory purchase is required and redress is provided through the legal system for all three policies

Some of the most important gaps presented in Table 1 include:

- i) Whilst OP 4.12 and ESS 6 aim at minimizing severe long-term hardship, impoverishment, and environmental damage caused by involuntary resettlement, current national laws merely provide the environment for compulsory acquisition of land and subsequent payment of appropriate compensation. There is no explicit requirement to minimize hardships relating to involuntary resettlement. Thus, additional measures such as allowances for 'disturbance' and assistance to resettle PAPs are not provided for by Gambian law;
- ii) Unlike OP 4.12 and ESS 6 which cover economic and social impacts resulting in relocation or loss of shelter, loss of assets or access to assets and loss of income sources or means of livelihood, the Gambian law does not provide for additional measures to aid livelihood recovery or to provide special assistance to vulnerable groups;

- iii) The Land Acquisition and Compensation Act provides for limited consultation procedures. Apart from a disclosure notice informing potential victims of Government’s intention of acquiring their property compulsorily for public purposes, the Act has no provision for public consultation and involvement in the acquisition process. OP 4.12 and ESS 6 on the other hand require public consultations to be made to ensure that all relevant stakeholders are given the opportunity for informed participation in resettlement planning with the goal that the mitigation of the adverse project impacts is appropriate and the potential benefits of resettlement are sustainable.
- iv) The Land Acquisition and Compensation Act recognizes only those who have legal title to the land to be acquired. Consequently those who do not have a legal (Freehold, Leasehold or customary) right to land are not entitled to any compensation for lost property, assets or earnings. These groups, who would therefore not qualify for compensation, include renters and squatters, whether residential or business.
- v) The Land Acquisition and Compensation Act provides no legal requirement to prepare Resettlement Action Plans (RAPs) or to undertake monitoring of the resettlement process unlike ESS6 and OP 4.12.
- vi) All three provide grievance redress through the legal system. In addition to this, however, the EIB further provides that the promoter shall set up and maintain a grievance mechanism that is independent and free.

As adherence to national legislation, WB, and EIB provisions is prerequisite for implementation of this Project, this RPF requires that NAWEC fully respects and implements these provisions. Where the national legislation differs from the other two, the Lenders policies should prevail. In cases where the WB Policy guidelines, OP4.12 and the EIB relevant ESS differ, the more stringent will prevail; analysis of the provisions in Table 1 show that there is no difference in the Lenders’ requirements.

Table 1: Comparative analysis of the Land Acquisition and Compensation Act with O.P. 4.12 and ESS6

Provision	Land Acquisition & Compensation Act	EIB ESS 6	OP 4.12
Compensation	1. Compensation required 2. Compensation assessed as replacement value.	1. Compensation Required 2. Compensation assessed as replacement value	1. Compensation required 2. Compensation assessed as replacement value.
Notification	Required	Required	Required
Grievance Redress	Redress provided through the legal system	In addition to legal, an independent and free mechanism shall be set up and maintained	In addition to legal, an independent and free mechanism shall be set up and maintained

Provision	Land Acquisition & Compensation Act	EIB ESS 6	OP 4.12
Consultation	Provides for limited consultation procedures.	Consultation with all relevant stakeholders must be made	Public consultation and involvement required (including disclosure information on grievance redress procedures)
Objective of Resettlement	Merely provides for compulsory acquisition of land for public purpose and subsequent payment of compensation.	Minimises severe long-term hardship, impoverishment, and environmental damage	Minimises severe long-term hardship, impoverishment, and environmental damage
Coverage	Does not provide for additional measures to aid livelihood recovery or for increased assistance to vulnerable groups.	Covers economic and social impacts resulting in relocation or loss of shelter, loss of assets or access to assets and loss of income sources or means of livelihood.	Covers economic and social impacts resulting in relocation or loss of shelter, loss of assets or access to assets and loss of income sources or means of livelihood.
Minimizing Resettlement	No explicit requirement to minimize involuntary resettlement.	Involuntary resettlement should be minimized as much as possible.	Involuntary resettlement should be minimized as much as possible.
Eligibility	Recognizes only those who have legal title	In addition to those who have legal title, the Policy also recognizes squatters and vulnerable groups.	In addition to those who have legal title, the Policy also recognizes squatters and vulnerable groups.
Cut-off Date	The date that the Minister of Lands and Regional Governments notifies potential PAPs of his approval for the acquisition of property for public purposes	The date when PAPs' assets and infrastructure are recorded during the census survey.	The date when the PCU completes the census of people occupying the land to be acquired and the inventory of their assets.
Preparation of Resettlement Action Plan	No legal requirement to prepare Resettlement Action Plan.	Resettlement Action Plan required	Resettlement Action Plan required
Monitoring of Resettlement Process	Monitoring of the resettlement process is not provided.	Monitoring of the resettlement process required.	Monitoring of the resettlement process required.

3.5 Other relevant national policies

3.5.1 National Gender Policy, 2010 - 2020

The National Gender Policy (2010-2020) is designed to address gender inequalities and issues in various aspects, at all levels of government and by all stakeholders. The six priority areas for the policy include “Gender and Sustainable Livelihoods Development” and “Poverty Reduction and Economic Empowerment”. While women play a key role in smallholder agriculture as well as engage largely in petty trading and small scale economic activities, their productivity is constrained by several factors including lack of access, control and ownership of productive resources such as land, credit, and improved technology and extension services.

This policy has helped increase awareness on gender as a development concern, increase enrolment and retention of girls in schools, improve health care delivery, increase women participating in decision making, and reduction in gender stereotyping and discrimination.

In terms of this study, the resettlement programmes identify vulnerable groups to include PAPs of special needs, such as women, children and unemployed youth among others. This resettlement process is, therefore, consistent with the provisions of this Policy as it will extend particular recognition and support to all vulnerable groups including women.

3.5.2 National Youth Policy, 2009 - 2018

The ultimate goal of the Youth Policy is to ensure that investments in youth take place across sectors as well as through all national policies and programs. Although mainstreaming youth has been a major challenge due to the lack of effective coordination and monitoring mechanisms, consideration of youth issues in all sectors of the Country’s development agenda remains a major priority of this Policy.

The National Youth Policy is of great relevance, as the resettlement process will accord special support and assistance to youths that may be affected by the Project (particularly unemployed youths). Thus, this will be a major example of mainstreaming youth issues into government projects and programmes which is consistent with the requirements of this RPF.

The main objective of the Policy is to invest in youths for national development by creating opportunities for employment and skills training for all youths. Furthermore, the Policy seeks to enable the National Youth Council to coordinate the implementation of youth projects and programmes based on a sound youth dimension with a view to investing in the future of Gambian Youth.

3.5.3 Children’s Act, 2005

The Children’ Act 2005 provides the framework for protecting all children, especially those needing special protection measures, by ensuring that they have the right to any such measures that are appropriate to their physical, social economic, emotional and mental needs. In this regard, the Act aims at ensuring that the dignity, self-reliance and active participation in the affairs of children in the community are adequately promoted and guaranteed.

Like women and youths, children (particularly orphans) are identified as a vulnerable group by this resettlement process. Consequently, this instrument plays an important role in the RPF which is consistent with its provisions.

3.6 Institutional Framework for Involuntary Resettlement

A number of institutions will participate in the implementation of any compulsory land acquisition, compensation and resettlement/ rehabilitation process that may arise during the implementation of the GERMP. The overall responsibility, however, will rest with NAWEC.

For the purpose of this RPF, the main institutions involved and their responsibilities at national, regional, local and / community levels are highlighted.

3.6.1 National Level

At the national level the following agencies will be involved:

a) Ministry of Lands and Regional Governments

The Ministry of Lands and Regional Governments is the apex Institution responsible for all land administration activities in the country. The Ministry is the final approving authority for all planning and land transactions undertaken and processed by its technical departments. It is the custodian of all land-related legislation (including the Land Acquisition and Compensation Act) and oversees all Boards and Authorities responsible for land matters that report to the Minister through the Directors of Lands and Surveys, and Physical Planning and Housing respectively.

This Ministry is also responsible for Decentralization (Local Government Act 2002) which seeks to promote greater community involvement in the policy formulation and decision-making processes in order to improve local governance. This requires involvement of the local community apart from the elected members and public servants, especially in those areas which directly affect the lives of the whole community. A community that is more aware and involved is likely to yield fresh ideas on problems and solutions. Therefore, in the preparation and implementation of the RAP, the local communities are expected to be closely involved.

b) Department of Lands and Surveys

The Department of Lands and Surveys is responsible for the day-to-day administration of the State Lands Act, the Surveys Act, the Land Acquisition and Compensation Act and the Rating and Valuation Act. The Department is mandated to:

- i) demarcate all layout plans
- ii) prepare lease plans
- iii) ensure maintenance of the National Geodetic Survey Framework
- iv) prepare cadastral (registration) plans for adjudication on land titles
- v) prepare base maps for valuation purposes

- vi) prepare various types of thematic maps and
- vii) carry out property valuations for rating and compensation purposes

The Department acts as the secretariat of the Land Administration Boards and processes all applications for land, leases and assignments.

c) Department of Physical Planning and Housing

The Department of Physical Planning and Housing is responsible for:

- i) the preparation of physical development and land use plans at national, district and local levels
- ii) control of land development at national, district and local levels
- iii) control and coordination of land use at national, district and local levels
- iv) implementation of the National Housing Policy
- v) approval of all applications for development permits
- vi) serving as the secretariat of the six Divisional Planning Authorities as well as the National Planning Board.

d) National Environment Agency (NEA)

The National Environmental Agency was established by the National Environment Management Act 1994. The NEA is charged with the responsibility for environmental management in The Gambia. The Agency prescribes standards and guidelines relating to environmental protection and/or pollution. It may, by notice in writing, direct any developer carrying on any project to submit an Environmental Impact Assessment covering the project.

In the GERMP, the NEA will be responsible for the overall supervision of the monitoring program and for screening and appraising the RAP as well as monitoring and evaluating the resettlement/rehabilitation process.

e) Land Surveyors' Board

The Surveys Act provides for the establishment of a Land Surveyors' Board to, among other things, grant license to private surveyors to enable them carry out surveying work in The Gambia and to advise the Director of Lands and Surveys or the Minister for Lands and Regional Governments on any matter referred to it in connection with cadastral or other survey matter under the provision of the Act.

f) National Physical Planning Board

The Physical Planning and Development Control Act provides for setting up a National Physical Planning Board. The Board shall be appointed by the Minister for Lands and Regional Governments, and shall authorise and direct the preparation of draft plans in accordance with the Act. The Board shall advise the Minister on:

- a) the formulation of general physical development policy for the country as a whole or for any part as may be necessary;
- b) any matter relating to the administration of the Physical Planning and Development Control Act, including the making of appropriate regulations; and

- c) any matter referred to it by the Minister and shall do such other things as it may consider necessary for the carrying out of its functions under the Act.

Similar bodies are also provided for by the Act at the regional level and referred to as Regional Physical Planning Authorities.

g) Attorney General's Department

The Attorney General's Department has redress mechanisms in place for aggrieved persons. Affected persons who are not satisfied with compensation due to them are empowered by the Constitution to seek redress in the court of law. When this happens, the Attorney General's Department represents the Government in the court proceedings. The Attorney General's Department is also responsible for drafting the Executive Instrument for acquiring the needed land for the Project.

3.6.2 Regional Level

a) Local Government Authorities

The Local Government Authorities' only direct involvement in land administration is the maintenance of a register of all properties in their jurisdiction for the purpose of collecting rates. In this way, they have register of ownership albeit not always very accurate.

b) Governors' Offices

The Offices of the Governors process and prepare all applications for leases within their jurisdiction. The Governor is the chairperson of the Regional Physical Planning Authority.

c) Land Administration Board

The State Lands Act provides for the setting up of a Land Administration Board for the Greater Banjul Area (GBA) and for each Region as and when required. The Board, which shall be appointed by the Minister for Lands and Regional Governments, shall perform the following functions amongst others:

- a) Advise on the acquisition and compensation of land for public purpose;
- b) Investigate disputes on land ownership and occupation in designated areas;
- c) Assess land tax and premium for properties within designated areas; and
- d) Monitor the registration of properties and inspect land register and records.

3.6.3 Community level

a) District Authorities / Tribunals

According to the Lands (Regions) Act, customary land is vested in the District Authority. In this regard, the District Authority, chaired by the District Chief, approves all applications for

conversion of customary tenure to leasehold. It also considers and approves all applications for transfer of ownership of land within its jurisdiction.

The District Tribunal, also chaired by the District Chief, presides over all cases relating to land disputes and ownership.

b) Alkalolu

The Alkalo (Village Head) oversees the management of all customary land in the village on behalf of the District Authority. As a result the mandate to allocate village land is vested on the Alkalo. He also approves all allocation and transfers made by Kabilo heads. The Alkalo collects land rates on behalf of the Council. Given that the majority of properties fall under this category, the Alkalo performs significant land management functions in the country.

CHAPTER 4: PROCEDURES FOR LAND ACQUISITION AND RESETTLEMENT FOR THE GERMP INFRASTRUCTURAL INVESTMENT

The proposed activities under Components 1 and 2 of the Project will require land which may result in involuntary acquisition and this can lead to loss of land, denial of people's access or restriction of access to land resources, services and social amenities. In this case, the RPF and RAPs consistent with OP 4.12 and ESS 6, 7 and 10 must be prepared.

4.1 The screening process

Once a particular site is identified for the infrastructural development of the Project, the GERMP Environmental, and Social Specialists shall complete an Environmental Impact Assessment Screening Form to be issued by the National Environment Agency (NEA), which helps determine the environmental classification of the Project with regards to potential impacts. In particular, Section 8 questions whether, amongst others, human populations will be affected in any way by the Project, whilst Section 9 requires the proposed mitigation for displacement of populations. The form shall be submitted to the NEA for further scrutiny and coordination for the preparation of the RAP and accompanying ESMP.

If the impacts on human populations include temporary or permanent displacement, and loss of livelihood or income, as a WB / EIB Project, it would require the development of a RAP to guide the mitigation. In particular, if the answer to any of the following questions is yes, a RAP is required.

- Will the infrastructure result in displacement, loss of assets, or access to assets?
- Will the infrastructure result in the permanent or temporary loss of crops, fruit trees, and household infrastructure (such as granaries, outside toilets and kitchens, etc.)?

If both answers are 'No,' the construction poses no particular resettlement concern. If one or more of the answers are 'Yes,' then a Resettlement Action Plan (RAP) is required.

Similarly, the screening of project components must be carried out on a case-by-case basis to determine:

- whether land that is occupied or used will be required and
- whether associated mitigating measures that will be necessary before the construction phase have been defined in sufficient detail that they can be readily implemented.

The findings are forwarded to the PCU for field verification of the assessment results and where the construction poses no particular concern or only minor ones that can be avoided through design or other alternatives, the construction work should be allowed to proceed. These avoidance measures should be included in the bidding documents and contractors made to fully implement such clauses.

The Bank's policy requires a RAP for any investment that involuntarily displaces people from land or productive resources, and the displacement results in: relocation, the loss of shelter, the loss of assets or access to assets important to production; the loss of income sources or means of livelihood; or the loss of access to natural resources. When this is found to be the case, the RAP will be developed.

Upon completion of screening, the NEA will advise the PCU on the outcome of the screening based on the following options:

- acceptance of proposal and development of study scope for ESMP and RAP
- the need for resubmission due to inadequate information to make a decision or
- total rejection if not in line with The Gambian laws.

4.2 Preparation, Review and Approval of the Resettlement Action Plan

Once the need for an RAP is confirmed, the PCU shall recruit consultants to carry out the assessment and prepare the RAP which will entail amongst others a baseline survey to be followed by the preparation of the plan. The completed draft plan is to be submitted to the NEA for review by the relevant stakeholders coordinated by NEA.

4.2.1 Consultations

In the preparation of the RAP, all stakeholders (including PAPs) will be consulted and such consultations will be part of the ongoing activities of the project. These consultations shall be based on a communication strategy that seeks to increase transparency, public understanding, and citizen involvement in the design and implementation of the RAP. The strategy will have a clear and consistent message to be delivered to the public through the following methods:

a) Public Meetings

Public meetings will be held in the affected areas with community leaders, opinion leaders, Members of Parliament and PAPs as individuals (during the survey) and in their groups. At these meetings, the people will be informed about the project, the assets likely to be impacted, the principle of compensation for the various types of losses will be detailed out and the list of persons and assets affected will be mentioned, if already known.

b) Individual Meetings

Individual(s)-based meetings will be conducted with each affected household either at the affected house or sub-office of the Project. During these meetings the affected individual/households will be informed of their asset(s) that have been affected and informed of the resettlement options. The affected group or individual will also be informed of their right to acquire assistance from any competent valuator, lawyer or legal counsellors during the assessment or meeting relating to the assessment of assets.

c) Use of Media Outlets

Local newspapers, community and local radio stations and TV shall be used to increase public awareness and promote transparency of the project activities including the RAP process.

d) Traditional Drama Presentations

These will include the traditional drama groups called Kanyeleng Kafos that will present the Project and the RAP process in drama form to facilitate easier understanding of the key issues of the Project and the procedure for assets evaluation and compensation.

e) Participation in Project Activities

An important component of the consultative process is stakeholder participation. To facilitate the participation in the Project, the PAPs will be assisted to form groups that provide institutional framework for participatory resettlement. The contractor will be encouraged to use local people to supply materials and goods needed for the sub-project implementation. Finally, they will be included in resettlement committees and monitoring teams.

The consultations mentioned shall, in all cases, take due consideration of representativeness and inclusion of women and marginalized or vulnerable groups. However, in view of the potential difficulties these groups sometimes have in making their voices heard in large open meetings, special arrangements shall be made at group and individual levels to reach out to them to create the necessary awareness and collect their views. The outcome of these consultations shall be adequately recorded and included in project documentation. In addition, all meetings will be in the local languages understood by the communities.

4.2.2 Baseline Survey

Preparation of the resettlement action plans will entail undertaking a baseline survey consisting a census of all affected persons, assets and socio-economic conditions of the affected persons.

The census would identify potentially affected individuals, households and vulnerable groups (children, the elderly, female headed households, widows, widowers, etc.). The socio-economic component will collect baseline socio-economic data of the potentially affected populations/communities within the project targeted areas. The socio-economic assessment would focus on identification of stakeholders (demographic data), the participation process, impact on their property, their production systems, the institutional analysis and the system for monitoring and evaluation. Detailed calculation of household economies and identification of all impacts will be necessary in the socio-economic assessment and be determinant in the potential compensation process.

Currently, national standards prescribing the procedures for carrying out the baseline survey / census does not exist in The Gambia, therefore, it is recommended that the RAPs stipulate specific procedures for use by the GERMP during assessment of displaced persons to ensure consistency during the survey.

4.2.3 Development of a Resettlement Action Plan

The resettlement action plan will include:

- Description of the project sub-component
- Potential impacts (including those identified during the census)
- Relevant findings of the survey including socio-economic study during the census
- Legal framework and Institutional framework
- Eligibility
- Valuation of and compensation of losses indicating whether compensation is in-kind for each loss or, for those assets whose indemnification is in cash, the unit compensation rates and overall cost for monetary compensation, including transport, administrative and other (e.g. contractor hiring) costs
- Resettlement measures
- Community participation and consultation with project affected-people
- Grievance redress procedures
- Organizational responsibilities
- Present any economic rehabilitation measures required
- Implementation schedule
- Costs, budget and the sources of funds
- Monitoring and evaluation
- A timetable for resettlement and sub-project activities

4.2.4 Appraisal of the RAP

The completed RAP will be submitted by the PCU to the NEA for appraisal by the EIA Working Group including relevant government agencies to examine whether the RAP is adequate and feasible.

4.2.5 Relocation and Compensation

The PCU will oversee the implementation of the RAP once it is completed and approved. The implementation of the RAP commands priority over the implementation of the investment component of the project to ensure that displacement or restriction of access does not occur before the necessary measures for resettlement are in place. The PCU will ensure that compensation is effected in line with national laws and lenders' policies on involuntary resettlement through the RPF and RAPs.

The PCU will coordinate and monitor the implementation of the RAP. This unit will be strengthened with the recruitment of social safeguards specialist who will be supported by the environmental safeguards specialist, and trained safeguards focal points selected from NAWEC regional officers. Depending on the size of the PAPs, payment may be done by NAWEC directly or it may be contracted out for reasons of transparency and expediency. Compensation payments to the PAPs should be completed before the commencement of the civil works.

CHAPTER 5: ELIGIBILITY CRITERIA FOR AFFECTED GROUPS/INDIVIDUALS

5.1 Eligibility Criteria for Compensation

For an effective involuntary resettlement program, a description of the categories of the affected groups and the potential type of impacts need to be established. Based on these, entitlements for each type and category of impact, the detailed requirements for determining the value of affected assets and outlining the process by which valuation will be undertaken will be set out.

Once involuntary resettlement is identified necessary for a Project, a census (carried out as described in Chapter 4) will form the basis for the eligibility and categorization of the PAPs in the context of preparing the RAP. This census will identify the persons who will be affected by the project and who will therefore be eligible for assistance. The potential PAPs can be classified in one of the following three groups:

- i) Those that have formal legal rights to land (including customary and traditional rights recognized under the laws of the Gambia)
- 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 laws of the country or become recognized through a process identified in the resettlement plan
- iii) Those who have no recognizable legal right or claim to the land they are occupying.

Persons covered under categories i) and ii) are provided compensation for the land they lose, and other assistance/compensation in accordance with OP 4.12. Persons covered under iii) are provided resettlement assistance instead of compensation, and other assistance as necessary, to achieve the objectives set out in OP 4.12 for the land they occupy, if they occupy the required Project area prior to the established cut-off date.

Project Affected Persons (PAPs) under categories ii) and iii) above include residential and business tenants, tenant farmers, squatters, petty traders, and businesses operated out of make-shift structures (such as shipping containers and other informal structures).

To be eligible for resettlement, the primary requirement for eligibility is that PAPs are enumerated at their place of work or residence during the RAP census. Where PAPs are not, for one reason or the other, enumerated during the census, or in cases of disputed eligibility, PAPs will be expected to provide proof of their presence in the project area during the census period in order to be eligible for compensation. Proof can include registered land titles, certificates of occupancy, proof of customary ownership, tenancy agreements, rent receipts or development permits. Where PAPs have none of the above, testimony from neighbors, employers, Village Alkalulo, or District Seyfulo will be allowed.

In any case, this is consistent with OP 4.12 and EIB EES6, both of which provide that all PAPs are eligible for compensation for any losses arising from project intervention whether the PAP is in

possession of title of land or not. Specifically, for land compensation, a land title or some other acceptable evidence such as those mentioned above, would be required.

5.2 Cut-off Date

For each investment, the cut-off date for eligibility will be set as the date of the census of people occupying the land to be acquired and the inventory of their assets (land, built structures, and other infrastructure such as wells and fences) and the affected groups have been duly informed of their dues. The same information should be made public in a meeting attended by the persons affected by the proposed sub project. The cut-off date will also be displayed at the offices of the Regional Governors, Regional Offices of NAWEC and the Area Councils.

Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance.

5.3 Categorization of persons likely to be affected

To facilitate the process of determining compensations, PAPs will be categorized according to their level and manner of losses. Thus, potential persons likely to be displaced (economically or physically) will be categorized into the following groups:

- a. Project affected persons (PAPs) are individuals whose assets may be lost and/or affected, including land, property, other assets, livelihoods, and/or access to natural and/or economic resources as a result of activities of this Project.
- b. Project affected households are groups of PAPs in one household and where one or more of its members are directly affected by the Project. These include members of the household, dependent relatives and tenants.
- c. Vulnerable groups who could be members of affected households. They include vulnerable members, such as those who are too old or too ill; children; those stricken with HIV/AIDS; women; unemployed youth; orphans; households headed by women that depend on sons, brothers, and others needing support and are especially vulnerable. The vulnerable groups will be eligible for additional assistance.
- d. Affected local communities if project activities affect its socio-economic and/or social-cultural relationships or cohesion. For example project activities could lead to loss of welfare or cultural cohesion etc.

5.4 Assistance to Vulnerable Persons

Vulnerable groups are usually disadvantaged in processes involving land transactions especially when a lot of paperwork is involved. As a result, this resettlement process will extend particular

recognition and support to all vulnerable groups including orphans, female-headed households, small scale female farmers, elderly persons, people living with disabilities and people living with HIV/AIDS.

CHAPTER 6: EVALUATION OF ASSETS AND COMPENSATION

6.1 Entitlements, quantification and compensation

The various types of likely entitlements for compensation and applicable compensation methods under the GERMP are summarized in Table 2 followed by the discussion. In addition, all compensations will be based on replacement values in accordance with the provisions of the Land Acquisition and Compensation Act and must be settled before any activity of the Project commences. As earlier mentioned in section 4.2.5 payments may be done by NAWEC directly or contracted out based on the RAPs.

Table 2: Evaluation of Assets and Compensation Methods

Compensation Category	Types	Valuation Method
Land acquisition and compensation (Permanent acquisition) <i>Note: If remaining parcel is not viable, owner has right to require purchase of entire parcel.</i>	Customary lands, private lands	Prevailing market value of the land to be acquired; otherwise, replacement value Owner has the opportunity of being allocated a new plot if one is available and it is suitable to owner's needs
Compensation for houses / infrastructure irrespective of legality of occupation rights of structure <i>This category will include squatters occupying line corridors</i>	All immovable structures and physical assets including buildings, concrete floors, perimeter walls, wells, outbuildings, etc.	Replacement value equivalent to the cost of constructing a new structure of similar construction standard and size at the prevailing prices without depreciation. Costs for replacement of walls and fences will be calculated by unit length, whilst costs for wells will take account their depth and lining. PAPs will be allowed to remove salvageable construction materials and this will not affect compensation. Transportation costs will be based on truck hire costs commensurate with volume of salvageable materials and possessions
	Temporary structures including kiosks, shacks, converted shipping containers	Full costs of removal and transfer to a location selected by the owner
	For tenants only: compensation for cost of any improvements made	Replacement value
Temporary loss of revenues during construction	Include residential tenants, business operators (whether owners or renters of their premises) and squatters	Full reinstatement or replacement value or a combination of the two
Compensation for crops	Standing crops (include <i>groundnuts, maize, millet, etc.</i>)	Valuation based on unit area cultivated (preferably in ha) multiplied by the yield potential (kg/ha) and prevailing market price (price/kg)
Trees (includes timber, fruit trees)	Timber	Valuation based on prevailing market price or the consumer price index
	Banana	Market value of the trees harvested in that year plus one additional year
	Other fruit trees (mangoes, oranges, coconut, guava, papaya)	Number of trees affected x by the average annual yield potential/tree x the number of productive years at time of felling x the prevailing market price

6.2 Land Compensation

Compensation for permanently lost parcels of land will be derived from the open market value of similar land in the immediate locality and based on prices previously paid, but which are adjusted to allow for changes and other circumstances affecting the land. Similarly, compensation for loss of land may also be in the form of another land of similar characteristics.

Thus, in this case, additional information will be sought from land brokers and/or field surveys involving the collection of the values of plots of land from the general area of the affected sites and comparing them with current physical characteristics of the land to be acquired.

Compensation for loss of the productive value of the land will also be determined. This will be based on the replacement value of the land assuming a specific period which can reasonably cover the losses incurred, if land can be reinstated to previous use. Any trees or structures lost as a result of the relocation will be separately assessed and compensated.

6.3 Compensation for Trees

Most trees have economic value, particularly fruit and timber trees. The scope of the affected fruit and timber trees would largely depend on the GERMP project sites.

6.3.1 Fruit Trees

In the Gambia, fruit trees include mangoes, oranges, coconut, guava, banana, papaya and medicinal trees. They are principally important as a source of supplementary food for families. They also provide cash income for its growers and shade in the case of mango trees for family and individual relaxation. The compensation periods for fruit trees are varied, for instance banana trees have a relatively much shorter productive lifespan than mango trees. Normally, a banana tree will not bear fruit more than once a year. In this regard, compensation for banana trees would be based on the full market values of the trees harvested in that year plus one additional year. Payment for the second-year would entail the replacement cost of planting a new tree, managing it and harvesting it all within a year. Not very many of these fruit trees are located in the prescribed project site. For the affected fruit trees in the project site, the valuation of compensation package would be based on comparable data from other recent RAPs where available or estimated by the number of fruit trees affected multiplied by the average annual potential yield /tree which is also multiplied by the number of productive years at time of felling the fruit trees all valued at the prevailing open market price that commensurate with its quality. The Planning Service Unit (PSU) and the National Agricultural Research Institute (NARI) of the Ministry of Agriculture's (MOA) can be contacted for database on agricultural commodities prices and potential yields for crops and fruit trees.

6.3.2 Timber

Where the Project inevitably encroaches onto forest parks, valuation of these timber trees for compensation would be carried out using either prevailing market prices from local markets or the consumer price index to allow for annual inflation. Outside forest parks, there may also be non-fruit trees within the Project sites as illustrated in Figure 4.



Figure 4: Eucalyptus trees in front of a residential compound

6.4 Compensation for Crops

The principal annual crops comprise food and cash crops. Annual food crops include early/late millet, maize, sorghum, rice and “findo”. Cash crops comprise groundnuts, sesame and cotton. These crops combined are important sources of food, nutrition and cash income of families and individuals. Therefore, the destruction of these trees would mar the livelihood standards of farmers and would warrant a compensation package for them.

In this light, the valuation of annual crops would be based on the unit area cultivated (preferably in ha) multiplied by both the yield potential (kg)/ha that depends on the crop quality and prevailing market price (price/kg) of the crop to derive the value of income from one season’s production. The same computation methods would be used for the following year’s harvest. PSU, DOA and NARI could be consulted for the database on commodity market prices and yield potential of annual crops.

In the absence of the existence of such databases, the compensation of the crops would be paid at market price (that would be valued at the last 3-year average for both mature and harvested crop) for the production lost. This takes into account the value of the crops and the value of the labor invested in the preparation of the new land.

6.5 Compensation for Houses and Infrastructure

Value of buildings and other structures will be determined using the replacement cost method which will be based on prevailing cost of erecting the building/structure and improvements.

The replacement cost for buildings and structures will be derived from references to prevailing unit construction costs for similar types of structure. Similarly, costs for replacement of walls and fences will be calculated by unit length whilst costs for wells will take account their depth and lining. Costs will include those related to reinstating utility connections.

Information on the costs of building and other materials may be required to derive accurate unit costs of structures. For temporary structures (such as shipping containers, kiosks and sheds used as shops and residences), compensation does not include replacement cost because it is assumed that the structure will be dismantled and/or relocated to another site. Assistance will, however, be provided to cover the full cost of removal and relocation to another site.

6.6 Compensation for Loss of Revenue derived from both Formal and Informal Activities

This category of entitlements cover PAPs who, whether or not they have ownership rights to affected land or structures, are current residential or commercial occupants of these lands or structures, and will experience disruption to their living arrangements or livelihoods. The principal groups falling into this general category include residential tenants, business operators (whether owners or renters of their premises) and squatters (such as Right of Way (ROW) occupiers).

This category include all immovable structures and physical assets including buildings, concrete floors, perimeter walls, wells, outbuildings, etc. as well as temporary structures including kiosks, shacks, converted shipping containers. In all cases compensation for cost of any improvements made and for loss of earnings will be paid.

CHAPTER 7: THE MECHANISMS FOR PREVENTION AND RESOLUTION OF GRIEVANCES

7.1 Types of Complaints and Conflicts to Resolve

Where compulsory acquisition is to take place and a resettlement and compensation program has to be implemented the potential sources of conflicts include the following:

- (i) Inventory mistakes made during census survey as well as inadequate valuation of properties.
- (ii) Mistakes related to identification and disagreements on boundaries between affected individual(s) and specifying their land parcels and associated development.
- (iii) Disagreements on plot/asset valuation.
- (iv) Disputed ownership of a given asset (two or more affected individual(s) claim on the same).
- (v) Where affected individual(s) opt for a resettlement based option, disagreement on the resettlement package (the location of the resettlement site does not suit them).

7.2 Grievance Redress Mechanisms for Complaints and Conflict Prevention and Resolution

NAWEC/GoTG will demonstrate to the Lenders that the process of a compulsory possession is unavoidable but recognized by law. Any forced evictions that may be required will be undertaken solely for the purpose of promoting the general welfare and that full, fair and timely compensation, rehabilitation and non-regression of rights (including the right to an adequate standard of living) will be fully ensured.

Notwithstanding, grievances shall be referred to a grievance resolution committee to be resolved using traditional and administrative mechanisms, or the law courts at national, regional and community levels. However, this grievance mechanism will be designed to be legitimate and trusted by all relevant partners including the PAPs in particular.

The GERMP Grievance Resolution Committee (GGRC) described below, shall be independent, free and in line with the requirements set out in EIB ESS 10. In particular, where a complaint is not admissible or relevant, the GGRC will refer the aggrieved parties to the relevant authority or other grievance process. The grievance mechanism process will not impede access to independent judicial or administrative remedies outside the specific context of the GERMP; quite the contrary, it should complement and facilitate access to the independent courts.

Grievances and conflicts need to be addressed immediately at the community level. The PCU is to be notified of any disputes in the project zone. Project field staff should work closely with the communities and the community leaders to clarify and resolve any misunderstanding that could give rise to conflicts.

Where the dispute cannot be resolved at the community level, the affected persons or party shall be advised to lodge a complaint to the specified GGRC. The Project field staff shall advise the party on how and where to file the complaint. To ensure reports are user friendly and complete for easy comprehension by the GGRC, a standard grievance report form may be developed by the social safeguards specialist to include name, address and contact details of complainant, date, and nature of complaint etc.

Where these traditional and administrative procedures fail to resolve the dispute, the aggrieved party has the right to take the matter to the courts with the possibility of reaching the Supreme Court which constitutes the last resort for solving these disputes. The 1997 Constitution, the State Lands Act 1991 and the Land Acquisition and Compensation Act 1991 all allow for the right of access to the Supreme Court by any person holding or claiming any estate or interest in the land.

7.3 The GERMP Grievance Resolution Committee (GGRC)

A GERMP Grievance Resolution Committee (GGRC) is proposed to be set up to inform and coordinate the relevant stakeholders and provide resources for resolution activities. The GGRC, through the Project Coordinator (Chair), shall maintain all records from complaint to final decision for future reference. The GGRC shall also ensure public participation and consultation is a part of the process at all times to promote understanding and prevent unnecessary complaints and disputes.

Membership of the GGRC shall include permanent members, whilst others will be coopted based on the region from which the grievance report comes from. For example Kotu falls under Kanifing Municipality Mayor whilst Brikama falls under the Governor of WCR. The following membership is proposed:

- The GERMP Project Coordinator (Chair)
- The GERMP Social Safeguards Specialist (Secretary)
- The GERMP Environmental Specialist
- Representative of the Ministry of Lands and Regional Governments
- The Governor or Mayor (depending on location)
- The Seyfo / Chief of the Districts (depending on location)
- Representative of the Village Development Committee (VDC)
- Representative of the PAPs
- Relevant local NGO

7.4 Grievance Redress Process

The structure or steps of the grievance mechanism shall comprise of:

- Receive, register and acknowledge complaint
- Screen and establish the foundation of the grievance
- Implement and monitor a redress action
- Advise for a judicial proceedings as last resort if necessary
- Document the experience for future reference

Where the traditional and administrative procedures fail to resolve disputes, the aggrieved party has the right to take the matter to the courts in accordance with the Constitution of The Gambia, other national laws, and the Lenders' policies.

The process is highlighted in Table3 with suggested timeframe and responsibilities.

Table 3: Proposed Course of Action to Address Grievance

Step	Process	Description/Required Action	Completion Timeframe	Responsible Agency/Person
1	Receipt of complaint	Document date of receipt, name of complainant, nature of complaint	1 day	PCU (specifically social safeguards specialist)
2	Acknowledgement of grievance	By letter, email, phone	1-5 days	Social safeguards specialist at the PCU
3	Screen and establish the foundation / merit of the grievance	Visit the site; listen to the complainant/community; assess the merit	7-14 days	GGRC members including the Project safeguard specialists, complainant and his/her representative
4	Implement and monitor a redress action	Where complaint is justified, identify and carry out the redress	21-30 days or at a time specified in writing to the complainant	Project Coordinator, social-, environmental safeguard specialists to coordinate the implementation of redress action
5	Extra intervention for a dissatisfied scenario	Review the redress steps and conclusions, provide intervention solution	2-4 weeks of receiving status report	Project Coordinator GERMP and GGRC to review and react
6	Judicial adjudication	Take complaint to court of law	No fixed time	Complainant
7	Funding of grievance process	GGRC logistics and training, redress compensation, court process	No fixed time	GERMP

CHAPTER 8: INSTITUTIONAL RESPONSIBILITIES FOR THE IMPLEMENTATION OF THE RESETTLEMENT POLICY FRAMEWORK

To ensure the success of the resettlement plan requires an appropriate institutional framework both at agency and field levels. It is therefore important to identify as early as possible in project preparation the appropriate institutions and bodies to be mandated to carry out the various activities set out in the RPF. These include:

8.1 The Project Steering Committee (PSC)

A GERMP Project Steering Committee (PSC), chaired by the Permanent Secretary, Ministry of Petroleum and Energy should be created to oversee the activities of the GERMP. Given the similarities in functions, the membership of the GESP PSC could well be the PSC for the GERMP to oversee implementation of the RPF and subsequent RAPs. The Permanent Secretary, Ministry of Lands and Regional Governments will be on the GERMP PSC.

The PSC's roles and responsibilities shall include:

- Oversee and check the implementation of the GERMP RPF and RAPs
- Review and address all issues relating to compensations, disputes
- Closely monitor the progress reports
- Visit the Project sites to ensure progress of work and other activities

8.2 The Project Coordination Unit (PCU)

Currently, the GESP Project Coordination Unit is overseeing the preparation of the Project and it is assumed that at the end of the preparatory phase a more permanent GERMP PCU structure will be in place to oversee the implementation of the project. Such a body shall be responsible for the whole resettlement planning and implementation process. It will be responsible for the oversight of implementation of the RPF and provide an enabling environment for the same. The Management of NAWEC shall have overall oversight role and responsibility.

The tasks and responsibilities of the GERMP PCU shall include:

- Recruit an environmental safeguards specialist and a social safeguards specialist for the GERMP to be responsible for all the environmental and social aspects of the Project including coordination and monitoring of the implementation of the RPF and the Project's grievance redress mechanisms amongst others.
- The social safeguards specialist shall identify safeguards focal points at the NAWEC Regional offices that will be trained to support and report during project implementation.

- Responsibility for initial screening, and ensuring subproject specific Environmental and Social Impact Assessment, ESMP and RAPs are developed;
- Ensuring that the concept of minimal relocation and resettlement is taken into account in developing sub-projects;
- Ensure that bidding documents contain environmental and social safeguard clauses and that contractors fully implement those clauses;
- Ensure that compliance monitoring with Lenders' safeguard policies and national environmental laws and regulations is periodically carried out.
- Ensure that compulsory acquisition process is initiated where it is required (preparation of plans, preparation of the necessary legal instruments for acquisition)
- Supervise the implementation of monitoring and evaluation program.

8.3 National Environment Agency

The NEA will have a monitoring supervisory role and shall be responsible for confirming the results of the screening process, reviewing and clearing subproject-specific safeguard instruments and conducting compliance monitoring, with national laws and regulations, as well as WB and EIB safeguards policies and procedures. In addition the Agency shall:

- Conduct quarterly environmental visits to GERMP sites and provide technical advice and support in project implementation
- Participate in the training and sensitization of beneficiaries to enhance understanding of the national laws on social safeguards and World Bank and EIB Safeguard instruments.

8.4 Capacity Building and training

During implementation, it will be necessary to strengthen the capacity of NAWEC staff (including regional focal points) and other collaborating institutions on the safeguards, the tools, procedures and content of resettlement programs (RPF, RAPs). This will require the organization of training workshops for NAWEC and its partner agencies. With respect to the safeguard specialists of the GERMP PCU, short-term training programs on safeguards similar to those organised or sponsored by the World Bank are recommended.

CHAPTER 9: MONITORING AND EVALUATION

Monitoring and evaluation are fundamental components of the Resettlement Policy Framework and they will be carried out on a continuous basis. Monitoring of the resettlement process is normally the responsibility of the PCU, whereas evaluation is normally undertaken by an external agency.

It is important in monitoring that feedback be provided to the various agencies involved in the process so that identified problems can be resolved and avoided for the remainder of the resettlement process.

9.1 Monitoring

Monitoring will take place during the implementation of the resettlement policy framework and will consist of both internal and external monitoring.

Internal Monitoring

The social and environmental safeguards specialist at the PCU will be required to provide monthly reports on progress on the identification and acquisition of land, progress in the compensation of PAPs and the level of their participation in project activities. These reports will be submitted to the Project Coordinator for transmission to the Project Steering Committee/NAWEC.

The PCU will compile the monthly resettlement reports and make an integrated resettlement report in the annual monitoring and evaluation report to the NAWEC Management, the World Bank, EIB and NEA.

External Monitoring

External monitoring will be done by the NEA in collaboration with the EIA Working Group and technical advisory bodies under the Governor (West Coast Region) and Mayor (Kanifing Municipal Council). The frequency and scope of this monitoring will be determined in the Memorandum of Understanding to be signed between NAWEC and NEA based on the monitoring plans of the RAPs.

Given the exigency of making available the requisite quantitative and qualitative information/statistics for external monitoring, the report database will be continuously updated with respect to changes that occur on the ground as resettlement and compensation are being implemented. This will ensure factual, reliable and avoidance of under reporting on all aspects of the project activities and also keep the project abreast with changing realities.

The monitoring system will:

- a) alert PCU and the NAWEC Management on the necessity for land acquisition in any project component;
- b) provide timely information about the valuation and negotiation process;

- c) report any grievances that require resolution; and document timely completion of the sub-project resettlement obligations for all permanent and temporary losses, as well as unanticipated, additional construction damages.

9.2 Evaluation

An evaluation will be done to determine whether the efforts to restore the living standards of the affected population have been properly designed and executed. The method associated with this monitoring is to get both objective information and PAP perception.

The following are the objectives of the evaluation:

- (i) General assessment of the compliance of the implementation of the Resettlement Action Plan with general objectives and methods as set in this document;
- (ii) Assessment of the compliance of the implementation of the Resettlement Action Plan with laws, regulations and safeguard policies;
- (iii) Assessment of the consultation procedures that took place at individual and community level, together with the Central Government and Local Government levels;
- (iv) Assessment of fair, adequate and prompt compensation as they have been implemented;
- (v) Evaluation of the impact of the compensation on income and standard of living; and
- (vi) Identification of actions, as part of the on-going monitoring, to improve the positive impact of the program and mitigate its possible negative impact if any.

There should be a mid-term review as well as final evaluation. The latter should preferably take place after all RPF activities have been completed including development initiatives, but before the financial commitments to the program are finished. This will allow the flexibility to undertake any corrective action that the auditors may recommend before the project is completed.

The findings of the evaluation may be presented at a validation workshop to be attended by representatives of the PAPs, who would be asked to give: (i) their assessment of the resettlement process; (ii) the effects that this has had on their livelihoods; and (iii) suggestions as to first, what residual impacts they are still having to contend with, and second, what changes should be made for future projects.

9.3 Indicators for Monitoring and Evaluation

9.3.1 Monitoring Indicators

Indicators are set of targets prepared at project design against which project progress or otherwise can be measured. The monitoring indicators can be summarized as follows:

- number of statutory acquisition notices delivered and those outstanding;
- number of PAPs who have left the area by type by category comprising owners who have lost land or structures as well as tenants and employees who have lost their place of work, and the number remaining;
- number, type, and value of cash and in-kind compensation payments made;
- number and type of grievances redress applications, type of grievance made, and manner of resolution; and
- issues brought to the notice of the PCU handling the resettlement process by PAPs and the mode of settlement used.

9.3.2 Evaluation Indicators

Similarly, the evaluation indicators are also summarized below:

- the number of population that would be affected, number of stakeholder engagement conducted and duration
- the numbers of PAPs relocated and numbers un-relocated based on initial estimates.
- the number of compensation disbursed by type/ category of PAP, including the ability to comply with the terms of compensation contained in the RAP
- % or number of grievance received, number resolved and number left unresolved and why
- % or number of potential adverse impacts identified, number resolved
- % or number of PAPs compensated and % or number that have regained their incomes and activities

CHAPTER 10: BUDGET AND FUNDING ARRANGEMENTS

10.1 Budget

Resettlement Action Plans will include a detailed budget for compensation and other rehabilitation entitlements. It will also include information on how funds will flow as well as compensation schedule. The estimate of the overall cost of resettlement and compensation cannot however be determined prior to identification of the site for the project component, but will be determined during the socio-economic study. The compensation modality will be agreed upon between the PAPs and NAWEC. However, estimated costs of some of the proposed activities relating to the implementation of the RPF are provided below.

Table 2: Estimated cost for the implementation of the RPF

S/No.	Activity	Cost (US \$)	Financing	
			NAWEC/GoTG	IDA
1	Preparation of the RAP	50,000		X
2	Implementation of the RAP- compensation of loss of assets and revenue, relocation of PAP, assistance to vulnerable groups and contingencies	1,500,000	X	
3	Supervision of the monitoring by NEA	2,500		x
4	One day training workshop for staff of NAWEC and partner agencies on requirements and roles	2,500		x
5	Information and public awareness	2,500		x
6	Training of project partners on social and environmental safeguards (NEA, NAWEC / EIA Working Group, LGA & Community representatives etc.)	10,000		x
7	Monitoring and Evaluation	20,000		x
	Total	1,587,500	1,500,000	87,500

10.2 Sources and Mechanism of Financing

The implementation of the RAP, prepared as a result of the implementation of the present RPF will be financed by the Gambia Government through NAWEC. All compensation will comply with the relevant Gambian legislation and Lenders' requirements. A detailed inventory of all affected assets carried out while preparing the RAP, will provide the basis for estimating the compensation

and assistance costs. The funds will be disbursed in the same manner as the funds for the other components of the project and will comply with the regulations of The Gambia Government on the disbursement of funds by government and quasi-government agencies (i.e. direct transfer to bank accounts of the respective beneficiaries). The funds for the entire resettlement process will be provided from the resources of NAWEC or from the Consolidated Revenue of the Government of The Gambia.

The IDA credit will finance: the preparation of the RAP, communication and sensitization, capacity building, monitoring and evaluation (Mid-term and Final evaluation) estimated at USD 87,500 (Eighty-seven thousand five hundred Dollars).

CHAPTER 11: CONSULTATION AND DISCLOSURE PROCEDURES

Consultations with the communities are an important component of any resettlement exercise as they give an opportunity to the community, particularly the PAPs, to participate in the project. It is important for the consultation process to be documented.

11.1 Consultations on the Preparatory Processes

The documents on the resettlement process will be extensively discussed at the preparatory stage for the views of the stakeholders and once the documents are finalized they will be made available to the general public to ensure as wide publicity as possible.

11.2 Consultations on the Resettlement Policy Framework

As provided under World Bank policy OP. 4.12 and EIB ESS 6 and ESS 10, information and consultation on the GERMP Resettlement Policy Framework shall be organized as follows:

- (i) Organize Resettlement Policy Framework validation workshop for all relevant stakeholders for comments, including PAPs;
- (ii) Share with the Lenders for comments;
- (iii) Incorporation of stakeholders' comments.

11.3 Consultations on the Resettlement Action Plan (RAP)

Consultation with the public on the entire process of resettlement is essential as it offers the affected persons an opportunity to participate and contribute to both design and implementation of the project activities.

Public participatory consultation will be done through stakeholders' meetings and workshop at suitable locations such as the "bantaba", and the official residence or offices of the local leaders. Comments will eventually be considered for incorporation in the RAPs.

11.4 Disclosure

The RPF and RAPs when completed will be widely disclosed. Methods for the disclosure of the documents will include:

- (i) Distribution of as many copies as possible to different institutions, affected communities, and at strategic locations accessible to all stakeholders for comments and suggestions and referencing.

- (ii) Distribution to individuals and representative persons like Members of the National Assembly (NAMs), Regional Governors, Village Councillors, Village Development Committee members etc.
- (iii) Conducting meetings to discuss the plan. The meetings will be conducted at the places where the resettlement will take place.
- (iv) The final RPF and any RAP will be made available in the local communities affected by the resettlement.
- (v) There is no demand and need for translation of documents into local languages as the target audiences do not have the literacy capacity to read the translated documents. Therefore, meetings and discussions will be held in English or local languages used by the communities to develop understanding of the Project and resettlement issues where there is demand.
- (vi) The RPF and RAP shall also be disseminated through the NAWEC and World Bank websites.

BIBLIOGRAPHY

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ANNEXES

Annex 1: Main Contents of a Resettlement Action Plan

- Description of the project sub-component
- Potential impacts (including those identified in the census)
- Relevant findings of census including socio-economic study
- Legal framework
- Institutional framework
- Eligibility
- Valuation of and compensation of losses indicating whether compensation is in-kind for each loss or, for those assets whose indemnification is in cash, the unit compensation rates and overall cost for monetary compensation, including transport, administrative and other (e.g. contractor hiring) costs
- Resettlement measures
- Community participation
- Grievance procedures
- Organizational responsibilities
- Present any economic rehabilitation measures required
- Implementation schedule
- Costs, budget and the sources of funds
- Monitoring and evaluation
- A timetable for resettlement and sub-project activities

Annex 2: Summary of Consultations with Stakeholders

Consistent with best practice, consultations were held with relevant stakeholders. Annex 3 indicates the list of institutions and persons met. The stakeholders of this Resettlement Programme were identified after undertaking literature review and preliminary consultations.

Consultative meetings were held during field visits with key stakeholders and institutions including: NAWEC, Office of the Governor of West Coast Region, Government Ministries and Departments as well as village Alkalo of village of Jambur, and potential PAPs..

Aims and Objectives of the Consultations

The consultations with these stakeholders were carried out to specifically achieve the following objectives:

- i. To provide information about the project and to find out initial stakeholder reaction on key issues relating to the Project activities particularly as they impact on the social baseline conditions of the sites including the T&D corridor
- ii. To provide opportunities to stakeholders to discuss their opinions and concerns
- iii. To identify specific interests and to highlight potential roles and responsibilities of stakeholders and ensure their participation. This shall prevent future conflict and complaints
- iv. To inform the process of developing appropriate management measures as well as institutional arrangements for effective implementation of this RPF.

Summary of Key Stakeholder Concerns and Views

During the stakeholder consultations, a number of issues and concerns that may strongly impact the Project implementation were raised. The following is a summary of key stakeholder concerns and views.

i. From Institutions

- A 23ha piece of land has already been allocated to NAWEC by the Ministry of Lands and Regional Governments for hosting at least 20 MW of solar PV panels for power generation.
- Most beneficiaries of such land allocations, such as NAWEC, do not develop the land quickly enough and therefore increase the chance of encroachments.
- The project must ensure that a strict cut-off date is enforced during the relocation process to avoid illegal encroachment during this period.

- Government must ensure that a precedence is not created during the compensation process to avoid setting compensation standards that it may find difficult to implement in future projects
- Capacity of stakeholder institutions to carry out resettlement programmes is weak, especially on conducting property valuation.
- Road reserve requirements should be enforced along transmission line corridors.
- In addition to the land in Jambur, several smaller pieces of land were already reserved by local authorities in different localities in the West Coast Region for development of solar fields.
- The project must follow existing dispute resolution mechanisms through the Alkalo, the Seyfo and District Tribunal through to the formal courts.
- NAWEC should collaborate with Local Authorities and all relevant stakeholders to achieve the objectives of the Project.
- The Department of Physical Planning and Housing as well as the Regional Physical Planning Authorities should be involved in all aspects of the Resettlement process.

ii. From Villagers and potentially affected persons around the proposed solar field and along the transmission line corridor

- There is need for sensitization of affected people within the solar field and along the T&D corridors. NAWEC should, therefore, sensitize communities in collaboration with all stakeholders and partner institutions.
- Trees are very important for providing shade, and valuable fruits for both consumption and sale. Therefore, unless it is evidently unavoidable trees should not be cut.
- Where possible, trees should only be trimmed.
- This is a vital project that will benefit the entire nation but affected land owners should be sufficiently compensated.
- The Project is important and welcomed by the community of Jambur, however, any acquisition of their properties must be compensated. Part of the land identified for the solar field has other claimants, and should NAWEC insist on using it this will trigger resettlement and compensation, i.e preparation of RAP

Annex 3: List of Persons Consulted

	NAME	DESIGNATION	INSTITUTION / COMMUNITY
1.	Demba Jallow	Project Coordinator, GESP, and NAWEC Corporate Planning Manager	NAWEC
2.	Edrissa Jarju	Senior Manager, Transmission & Distribution Division, and Head of Renewable Energy Unit	NAWEC
3.	Lang Sabally	Director - Corporate Affairs	NAWEC
	Alhagie Cham	Manager, Planning and Corporate Services Division	NAWEC
4.	Bambo Fatty		NAWEC
5.	Assan Colley	Draughtsman	NAWEC
6.	Malick Bah	Senior Programme Officer, EIA	NEA
7.	Buba Sey	Programme Officer, EIA	NEA
8.	Lamin Samateh	Environmental Inspector	NEA
9.	Mod Ceesay	Permanent Secretary	Min. of Petroleum and Energy
10.	Buba Sanyang	Permanent Secretary	Ministry of Lands and Regional Administration
11.	Musa Badji	Director	Department of Physical Planning and Housing
12.	Mamudou Manjang	Assistant Director	Department of Physical Planning and Housing
13.	Essa Camara	Principal Physical Planning Officer	Department of Physical Planning and Housing
14.	Mariama Jobarteh	Development Control Technician	Department of Physical Planning and Housing
15.	Malang Jarseh	Deputy Director	Department of Forestry
16.	Cherno Gaye	Senior Forestry Officer	Department of Forestry
17.	Saikou Sonko	Forestry Officer	Department of Forestry
18.	Abdou Giggo	Deputy Principal	Farafenni Senior Secondary School
19.	Amie Bobb	Officer in Charge	Kuntaya Health Centre
20.	Victor Jatta	Public Health Officer	Kuntaya Health Centre
21.	Ebrima Mballow	Governor, West Coast Region (Chair, TAC WCR)	Governor's Office
22.	Binta Sey	TAC Member, WCR	National Disaster Management Agency
23.	Omar Sanyang	TAC member, WCR	Gambia Red Cross Society
24.	Aba Colley	Police Commissioner (TAC member, WCR)	Gambia Police Force
25.	Samba Bah	Director (TAC member, WCR)	State Intelligence Agency
26.	Adama Keita	TAC Member, WCR	National Aids Secretariat
27.	Kaddy Bojang Saidy	TAC Member, WCR	Department of Agriculture

	NAME	DESIGNATION	INSTITUTION / COMMUNITY
28.	Bakary Jarju	TAC Member, WCR	Gambia Fire and Rescue Services
29.	Gibril Sanneh	TAC Member, WCR	Regional Health Directorate
30.	Baboucarr Secka	TAC Member, WCR	Department of Youth and Sports
31.	Alfusainey Jarju	Seyfo	Foni Bintang District
32.	Jammeh K. L. Bojang	Seyfo	Kombo Central District
33.	Sheriff Sonko	Potential PAP /land claimant	Jambur Village
34.	Lamin Sonko	Community member	Jambur Village
35.	Ousman Bojang	Community member	Jambur Village
36.	Momodou Jallow	Community member	Jambur Village
37.	Oumie Bojang	Potential PAP	Jambur Village
38.	Jariatou Bojang	Potential PAP	Jambur Village
39.	Gala Bah	Community elder	Jambur Village
40.	Juma Bojang	Community member	Jambur Village
41.	Yusupha Sanyang	Badge Messenger / Village Alkalo Representative	Jambur Village
42.	Momodou Jaiteh	Managing Director	Green Vision International Ltd (Estate Developer)

Annex 4: World Bank Policy on Involuntary Resettlement

OP 4.12 - Involuntary Resettlement

These policies were prepared for use by World Bank staff and are not necessarily a complete treatment of the subject.

OP 4.12
December, 2001

Note: OP/ BP 4.12, *Involuntary Resettlement*, were revised on April 2013 to take into account the recommendations in “*Investment Lending Reform: Modernizing and Consolidating Operational Policies and Procedures*” (R2012-0204 [IDA/R2012-0248]), which were approved by the Executive Directors on October 25, 2012. As a result of these recommendations: (a) OP/ BP 10.00, *Investment Project Financing*, have been revised, among other things, to incorporate OP/BP 13.05, *Supervision* and OP/BP 13.55, *Implementation Completion Reporting*, (which have consequently been retired); and (b) OP/ BP 8.60, *Development Policy Lending*, and OP 9.00, *Program-for-Results Financing*, have also been revised. OP/ BP 4.12 have consequently been updated to reflect these changes, to clarify the extent of applicability of OP/BP 4.12 to Development Policy Lending and Program-for Results-Financing, and to reflect the updated title of the Bank’s policy on access to information.

Questions on this OP/BP may be addressed to the Safeguard Policies Helpdesk in OPCS (safeguards@worldbank.org).

Revised April 2013

1. Bank¹ experience indicates that involuntary resettlement under development projects, if unmitigated, often gives rise to severe economic, social, and environmental risks: production systems are dismantled; people face impoverishment when their productive assets or income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community institutions and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost. This policy includes safeguards to address and mitigate these impoverishment risks.

Policy Objectives

2. Involuntary resettlement may cause severe long-term hardship, impoverishment, and environmental damage unless appropriate measures are carefully planned and carried out. For these reasons, the overall objectives of the Bank’s policy on involuntary resettlement are the following:

(a) Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.²

(b) Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. Displaced persons³ should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.

(c) Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is

higher.⁴

Impacts Covered

3 . This policy covers direct economic and social impacts⁵ that both result from Bank-assisted investment projects,⁶ and are caused by

(a) the involuntary⁷ taking of land⁸ resulting in

(i) relocation or loss of shelter;

(ii) lost of assets or access to assets; or

(iii) loss of income sources or means of livelihood, whether or not the affected persons must move to another location; or

(b) the involuntary restriction of access⁹ to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the displaced persons.

4. This policy applies to all components of the project that result in involuntary resettlement, regardless of the source of financing. It also applies to other activities resulting in involuntary resettlement, that in the judgment of the Bank, are

(a) directly and significantly related to the Bank-assisted project,

(b) necessary to achieve its objectives as set forth in the project documents; and

(c) carried out, or planned to be carried out, contemporaneously with the project.

5. Requests for guidance on the application and scope of this policy should be addressed to the Resettlement Committee (see [BP 4.12, para. 7](#)).¹⁰

Required Measures

6. To address the impacts covered under para. 3 (a) of this policy, the borrower prepares a resettlement plan or a resettlement policy framework (see paras. 25-30) that covers the following:

(a) The resettlement plan or resettlement policy framework includes measures to ensure that the displaced persons are

(i) informed about their options and rights pertaining to resettlement;

(ii) consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives; and

(iii) provided prompt and effective compensation at full replacement cost¹¹ for losses of assets¹² attributable directly to the project.

(b) If the impacts include physical relocation, the resettlement plan or resettlement

policy framework includes measures to ensure that the displaced persons are

- (i) provided assistance (such as moving allowances) during relocation; and
- (ii) provided with residential housing, or housing sites, or, as required, agricultural sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site.¹³

(c) Where necessary to achieve the objectives of the policy, the resettlement plan or resettlement policy framework also include measures to ensure that displaced persons are

- (i) offered support after displacement, for a transition period, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living;¹⁴ and
- (ii) provided with development assistance in addition to compensation measures described in paragraph 6(a);
- (iii) such as land preparation, credit facilities, training, or job opportunities.

7. In projects involving involuntary restriction of access to legally designated parks and protected areas (see para. 3(b)), the nature of restrictions, as well as the type of measures necessary to mitigate adverse impacts, is determined with the participation of the displaced persons during the design and implementation of the project. In such cases, the borrower prepares a process framework acceptable to the Bank, describing the participatory process by which

- (a) specific components of the project will be prepared and implemented;
- (b) the criteria for eligibility of displaced persons will be determined;
- (c) measures to assist the displaced persons in their efforts to improve their livelihoods, or at least to restore them, in real terms, while maintaining the sustainability of the park or protected area, will be identified; and
- (d) potential conflicts involving displaced persons will be resolved.

The process framework also includes a description of the arrangements for implementing and monitoring the process.

8. To achieve the objectives of this policy, particular attention is paid to the needs of vulnerable groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children, indigenous peoples,¹⁵ ethnic minorities, or other displaced persons who

may not be protected through national land compensation legislation.

9. Bank experience has shown that resettlement of indigenous peoples with traditional land-based modes of production is particularly complex and may have significant adverse impacts on their identity and cultural survival. For this reason, the Bank satisfies itself that the borrower has explored all viable alternative project designs to avoid physical displacement of these groups. When it is not feasible to avoid such displacement, preference is given to land-based resettlement strategies for these groups (see para. 11) that are compatible with their cultural preferences and are prepared in consultation with them (see [Annex A](#), para. 11).

10. The implementation of resettlement activities is linked to the implementation of the investment component of the project to ensure that displacement or restriction of access does not occur before necessary measures for resettlement are in place. For impacts covered in para. 3(a) of this policy, these measures include provision of compensation and of other assistance required for relocation, prior to displacement, and preparation and provision of resettlement sites with adequate facilities, where required. In particular, taking 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 the displaced persons. For impacts covered in para. 3(b) of this policy, the measures to assist the displaced persons are implemented in accordance with the plan of action as part of the project (see para. 30).¹⁶

11. Preference should be given to land-based resettlement strategies for displaced persons whose livelihoods are land-based. These strategies may include resettlement on public land (see footnote 1 above), or on private land acquired or purchased for resettlement. Whenever replacement land is offered, resettlers are provided with land for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the land taken. If land is not the preferred option of the displaced persons, the provision of land would adversely affect the sustainability of a park or protected area,¹⁷ or sufficient land is not available at a reasonable price, non-land-based options built around opportunities for employment or self-employment should be provided in addition to cash compensation for land and other assets lost. The lack of adequate land must be demonstrated and documented to the satisfaction of the Bank.

12. Payment of cash compensation for lost assets may be appropriate where (a) livelihoods are land-based but the land taken for the project is a small fraction¹⁸ of the affected asset and the residual is economically viable; (b) active markets for land, housing, and labor exist, displaced persons use such markets, and there is sufficient supply of land and housing; or (c) livelihoods are not land-based. Cash compensation levels should be sufficient to replace the lost land and other assets at full replacement cost in local markets.

13. For impacts covered under para. 3(a) of this policy, the Bank also requires the following:

(a) Displaced persons and their communities, and any host communities receiving them, are provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in planning, implementing, and monitoring resettlement. Appropriate and accessible grievance mechanisms are established for these groups.

(b) In new resettlement sites or host communities, infrastructure and public services are provided as necessary to improve, restore, or maintain accessibility and levels of service for the displaced persons and host communities. Alternative or similar resources are provided to compensate for the loss of access to community resources (such as fishing areas, grazing areas, fuel, or fodder).

(c) Patterns of community organization appropriate to the new circumstances are based on choices made by the displaced persons. To the extent possible, the existing social and cultural institutions of resettlers and any host communities are preserved and resettlers' preferences with respect to relocating in preexisting communities and groups are honored.

Eligibility for Benefits¹⁹

14. Upon identification of the need for involuntary resettlement in a project, the borrower carries out a census to identify the persons who will be affected by the project (see the [Annex A](#), para. 6(a)), to determine who will be eligible for assistance, and to discourage inflow of people ineligible for assistance. The borrower also develops a procedure, satisfactory to the Bank, for establishing the criteria by which displaced persons will be deemed eligible for compensation and other resettlement assistance. The procedure includes provisions for meaningful consultations with affected persons and communities, local authorities, and, as appropriate, nongovernmental organizations (NGOs), and it specifies grievance mechanisms.

15. *Criteria for Eligibility.* Displaced persons may be classified in one of the following three groups:

(a) those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country);

(b) those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets--provided that such claims are recognized under the laws of the country or become recognized through a process identified in the resettlement plan (see [Annex A](#), para. 7(f)); and²⁰

(c) those who have no recognizable legal right or claim to the land they are occupying.

16. Persons covered under para. 15(a) and (b) are provided compensation for the land they lose,

and other assistance in accordance with para. 6. Persons covered under para. 15(c) are provided resettlement assistance²¹ in lieu of compensation for the land they occupy, and other assistance, as necessary, to achieve the objectives set out in this policy, if they occupy the project area prior to a cut-off date established by the borrower and acceptable to the Bank.²² 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 para. 15(a), (b), or (c) are provided compensation for loss of assets other than land.

Resettlement Planning, Implementation, and Monitoring

17. To achieve the objectives of this policy, different planning instruments are used, depending on the type of project:

(a) a resettlement plan or abbreviated resettlement plan is required for all operations that entail involuntary resettlement unless otherwise specified (see para. 25 and [Annex A](#));

(b) a resettlement policy framework is required for operations referred to in paras. 26-30 that may entail involuntary resettlement, unless otherwise specified (see [Annex A](#)); and

(c) a process framework is prepared for projects involving restriction of access in accordance with para. 3(b) (see para. 31).

18. The borrower is responsible for preparing, implementing, and monitoring a resettlement plan, a resettlement policy framework, or a process framework (the "resettlement instruments"), as appropriate, that conform to this policy. The resettlement instrument presents a strategy for achieving the objectives of the policy and covers all aspects of the proposed resettlement. Borrower commitment to, and capacity for, undertaking successful resettlement is a key determinant of Bank involvement in a project.

19. Resettlement planning includes early screening, scoping of key issues, the choice of resettlement instrument, and the information required to prepare the resettlement component or subcomponent. The scope and level of detail of the resettlement instruments vary with the magnitude and complexity of resettlement. In preparing the resettlement component, the borrower draws on appropriate social, technical, and legal expertise and on relevant

community-based organizations and NGOs.²³ The borrower informs potentially displaced persons at an early stage about the resettlement aspects of the project and takes their views into account in project design.

20. The full costs of resettlement activities necessary to achieve the objectives of the project are included in the total costs of the project. The costs of resettlement, like the costs of other

project activities, are treated as a charge against the economic benefits of the project; and any net benefits to resettlers (as compared to the "without-project" circumstances) are added to the benefits stream of the project. Resettlement components or free-standing resettlement projects need not be economically viable on their own, but they should be cost-effective.

21. The borrower ensures that the Project Implementation Plan is fully consistent with the resettlement instrument.

22. As a condition of appraisal of projects involving resettlement, the borrower provides the Bank with the relevant draft resettlement instrument which conforms to this policy, and makes it available at a place accessible to displaced persons and local NGOs, in a form, manner, and language that are understandable to them. Once the Bank accepts this instrument as providing an adequate basis for project appraisal, the Bank makes it available to the public through its website. After the Bank has approved the final resettlement instrument, the Bank and the borrower disclose it again in the same manner.²⁴

23. The borrower's obligations to carry out the resettlement instrument and to keep the Bank informed of implementation progress are provided for in the legal agreements for the project.

24. The borrower is responsible for adequate monitoring and evaluation of the activities set forth in the resettlement instrument. The Bank regularly supervises resettlement implementation to determine compliance with the resettlement instrument. Upon completion of the project, the borrower undertakes an assessment to determine whether the objectives of the resettlement instrument have been achieved. The assessment takes into account the baseline conditions and the results of resettlement monitoring. If the assessment reveals that these objectives may not be realized, the borrower should propose follow-up measures that may serve as the basis for continued Bank supervision, as the Bank deems appropriate (see also [BP 4.12](#), para. 16).

Resettlement Instruments

Resettlement Plan

25. A draft resettlement plan that conforms to this policy is a condition of appraisal (see [Annex A](#), para. 2-21) for projects referred to in para. 17(a) above.²⁵ However, where impacts on the entire displaced population are minor,²⁶ or fewer than 200 people are displaced, an abbreviated resettlement plan may be agreed with the borrower (see [Annex A](#), para. 22). The information disclosure procedures set forth in para. 22 apply.

Resettlement Policy Framework

26. For sector investment operations that may involve involuntary resettlement, the Bank requires that the project implementing agency screen subprojects to be financed by the Bank to ensure their consistency with this OP. For these operations, the borrower submits, prior to

appraisal, a resettlement policy framework that conforms to this policy (see [Annex A](#), paras. 23-25). The framework also estimates, to the extent feasible, the total population to be displaced and the overall resettlement costs.

27. For financial intermediary operations that may involve involuntary resettlement, the Bank requires that the financial intermediary (FI) screen subprojects to be financed by the Bank to ensure their consistency with this OP. For these operations, the Bank requires that before appraisal the borrower or the FI submit to the Bank a resettlement policy framework conforming to this policy (see [Annex A](#), paras. 23-25). In addition, the framework includes an assessment of the institutional capacity and procedures of each of the FIs that will be responsible for subproject financing. When, in the assessment of the Bank, no resettlement is envisaged in the subprojects to be financed by the FI, a resettlement policy framework is not required. Instead, the legal agreements specify the obligation of the FIs to obtain from the potential sub-borrowers a resettlement plan consistent with this policy if a subproject gives rise to resettlement. For all subprojects involving resettlement, the resettlement plan is provided to the Bank for approval before the subproject is accepted for Bank financing.

28. For other Bank-assisted project with multiple subprojects²⁷ that may involve involuntary resettlement, the Bank requires that a draft resettlement plan conforming to this policy be submitted to the Bank before appraisal of the project unless, because of the nature and design of the project or of a specific subproject or subprojects (a) the zone of impact of subprojects cannot be determined, or (b) the zone of impact is known but precise sitting alignments cannot be determined. In such cases, the borrower submits a resettlement policy framework consistent with this policy prior to appraisal (see [Annex A](#), paras. 23-25). For other subprojects that do not fall within the above criteria, a resettlement plan conforming to this policy is required prior to appraisal.

29. For each subproject included in a project described in para. 26, 27, or 28 that may involve resettlement, the Bank requires that a satisfactory resettlement plan or an abbreviated resettlement plan that is consistent with the provisions of the policy framework be submitted to the Bank for approval before the subproject is accepted for Bank financing.

30. For projects described in paras. 26-28 above, the Bank may agree, in writing, that subproject resettlement plans may be approved by the project implementing agency or a responsible government agency or financial intermediary without prior Bank review, if that agency has demonstrated adequate institutional capacity to review resettlement plans and ensure their consistency with this policy. Any such delegation, and appropriate remedies for the entity's approval of resettlement plans found not to be in compliance with Bank policy, are provided for in the legal agreements for the project. In all such cases, implementation of the resettlement

plans is subject to ex post review by the Bank.

Process Framework

31. For projects involving restriction of access in accordance with para. 3(b) above, the borrower provides the Bank with a draft process framework that conforms to the relevant provisions of this policy as a condition of appraisal. In addition, during project implementation and before enforcing of the restriction, the borrower prepares a plan of action, acceptable to the Bank, describing the specific measures to be undertaken to assist the displaced persons and the arrangements for their implementation. The plan of action could take the form of a natural resources management plan prepared for the project.

Assistance to the Borrower

32. In furtherance of the objectives of this policy, the Bank may at a borrower's request support the borrower and other concerned entities by providing

- (a) assistance to assess and strengthen resettlement policies, strategies, legal frameworks, and specific plans at a country, regional, or sectoral level;
- (b) financing of technical assistance to strengthen the capacities of agencies responsible for resettlement, or of affected people to participate more effectively in resettlement operations;
- (c) financing of technical assistance for developing resettlement policies, strategies, and specific plans, and for implementation, monitoring, and evaluation of resettlement activities; and
- (d) financing of the investment costs of resettlement.

33. The Bank may finance either a component of the main investment causing displacement and requiring resettlement, or a free-standing resettlement project with appropriate cross-conditionalities, processed and implemented in parallel with the investment that causes the displacement. The Bank may finance resettlement even though it is not financing the main investment that makes resettlement necessary.

1. "Bank" includes IBRD and IDA; "loans" includes IDA credits and IDA grants, guarantees, Project Preparation Facility (PPF) advances and grants; and "projects" includes projects under (a) PPFs advances and Institutional Development Fund (IDF) grants, if they include investment activities; (b) grants under the Global Environment Facility and Montreal

Protocol, for which the Bank is the implementing/executing agency; and (c) grants or loans provided by other donors that are administered by the Bank. The term "project" does not include programs supported by Development Policy Lending (for which the environmental provisions are set out in [OP/ BP 8.60, Development Policy Lending](#)), or by Program-for-Results Financing (for which environmental provisions are set out in [OP/ BP 9.00, Program-for-Results Financing](#)). "Borrower" also includes, wherever the context requires, the guarantor or the project implementing agency.

2. In devising approaches to resettlement in Bank-assisted projects, other Bank policies should be taken into account, as relevant. These policies include [OP 4.01, Environmental Assessment](#), [OP 4.04, Natural Habitats](#), [OP 4.10, Indigenous Peoples](#), and [OP 4.11, Physical Cultural Resources](#).
3. The term "displaced persons" refers to persons who are affected in any of the ways described in para. 3 of this OP.
4. Displaced persons under para. 3(b) should be assisted in their efforts to improve or restore their livelihoods in a manner that maintains the sustainability of the parks and protected areas.
5. Where there are adverse indirect social or economic impacts, it is good practice for the borrower to undertake a social assessment and implement measures to minimize and mitigate adverse economic and social impacts, particularly upon poor and vulnerable groups. Other environmental, social, and economic impacts that do not result from land taking may be identified and addressed through environmental assessments and other project reports and instruments.
6. This policy does not apply to restrictions of access to natural resources under community-based projects, i.e. where the community using the resources decides to restrict access to these resources, provided that an assessment satisfactory to the Bank establishes that the community decision-making process is adequate, and that it provides for identification of appropriate measures to mitigate adverse impacts, if any, on the vulnerable members of the community. This policy also does not cover refugees from natural disasters, war, or civil strife (see [OP 8.00, Rapid Response to Crises and Emergencies](#)).
7. For the purposes of this policy, "involuntary" means actions that may be taken without the displaced person's informed consent or power of choice.
8. "Land" includes anything growing on or permanently affixed to land, such as buildings and crops. This policy does not apply to regulations of natural resources on a national or regional level to promote their sustainability, such as watershed management, groundwater management, fisheries management, etc. The policy also does not apply to disputes between private parties in land titling projects, although it is good practice for the borrower to undertake a social assessment and implement measures to minimize and mitigate adverse social impacts, especially those affecting poor and vulnerable groups.
9. For the purposes of this policy, involuntary restriction of access covers restrictions on the use of resources imposed on people living outside the park or protected area, or on those who continue living inside the park or protected area during and after project implementation. In cases where new parks and protected areas are created as part of the

project, persons who lose shelter, land, or other assets are covered under para. 3(a). Persons who lose shelter in existing parks and protected areas are also covered under para. 3(a).

10. The *Involuntary Resettlement Sourcebook* provides good practice guidance to staff on the policy.
11. "Replacement cost" is the method of valuation of assets that helps determine the amount sufficient to replace lost assets and cover transaction costs. In applying this method of valuation, depreciation of structures and assets should not be taken into account (for a detailed definition of replacement cost, see [Annex A](#), footnote 1). For losses that cannot easily be valued or compensated for in monetary terms (e.g., access to public services, customers, and suppliers; or to fishing, grazing, or forest areas), attempts are made to establish access to equivalent and culturally acceptable resources and earning opportunities. Where domestic law does not meet the standard of compensation at full replacement cost, compensation under domestic law is supplemented by additional measures necessary to meet the replacement cost standard. Such additional assistance is distinct from resettlement assistance to be provided under other clauses of para. 6.
12. If the residual of the asset being taken is not economically viable, compensation and other resettlement assistance are provided as if the entire asset had been taken.
13. The alternative assets are provided with adequate tenure arrangements. The cost of alternative residential housing, housing sites, business premises, and agricultural sites to be provided can be set off against all or part of the compensation payable for the corresponding asset lost.
14. Such support could take the form of short-term jobs, subsistence support, salary maintenance or similar arrangements.
15. See [OP 4.10](#), *Indigenous Peoples*.
16. Where the borrower has offered to pay compensation to an affected person in accordance with an approved resettlement plan, but the offer has been rejected, the taking of land and related assets may only proceed if the borrower has deposited funds equal to the offered amount plus 10 percent in a secure form of escrow or other interest-bearing deposit acceptable to the Bank, and has provided a means satisfactory to the Bank for resolving the dispute concerning said offer of compensation in a timely and equitable manner.
17. See [OP 4.04](#), *Natural Habitats*.
18. As a general principle, this applies if the land taken constitutes less than 20% of the total productive area.
19. Paras. 13-15 do not apply to impacts covered under para. 3(b) of this policy. The eligibility criteria for displaced persons under 3 (b) are covered under the process framework (see paras. 7 and 30).
20. Such claims could be derived from adverse possession, from continued possession of public lands without government action for eviction (that is, with the implicit leave of the government), or from customary and traditional law and usage, and so on.
21. Resettlement assistance may consist of land, other assets, cash, employment, and so on, as appropriate.

22. Normally, this cut-off date is the date the census begins. The cut-off date could also be the date the project area was delineated, prior to the census, provided that there has been an effective public dissemination of information on the area delineated, and systematic and continuous dissemination subsequent to the delineation to prevent further population influx.
23. For projects that are highly risky or contentious, or that involve significant and complex resettlement activities, the borrower should normally engage an advisory panel of independent, internationally recognized resettlement specialists to advise on all aspects of the project relevant to the resettlement activities. The size, role, and frequency of meeting depend on the complexity of the resettlement. If independent technical advisory panels are established under [OP 4.01](#), *Environmental Assessment*, the resettlement panel may form part of the environmental panel of experts.
24. See [The World Bank Policy on Access to Information, para. 34](#) (Washington, D.C.: World Bank, 2002).
25. An exception to this requirement may be made in highly unusual circumstances (such as emergency operations) with the approval of Bank Management (see [BP 4.12](#), para. 8). In such cases, the Management's approval stipulates a timetable and budget for developing the resettlement plan.
26. Impacts are considered "minor" if the affected people are not physically displaced and less than 10 percent of their productive assets are lost.
27. For the purpose of this paragraph, the term "subprojects" includes components and subcomponents.

Annex 5: European Investment Bank Relevant Environmental and Social Standards (ESS)

ESS 6: Involuntary Resettlement

Introduction

1. Projects often necessitate land acquisition, expropriation and/or restrictions on land use, resulting in the temporary or permanent resettlement of people from their original places of residence or their economic activities or subsistence practices. When affected persons and communities do not have the choice to refuse such displacement, this process is known as involuntary resettlement.

2. The complexity of displacement must be duly appreciated and its impact and remedy carefully analysed, planned and delivered as it may negatively affect the economic and social well-being of affected people and provoke severe economic and social problems in the origin and host communities. Income sources can be irreparably lost, people can be relocated to environments where their skills may be less applicable and monetary compensation may not be sufficient to prevent long-term hardship or disadvantage.

3. Project-induced involuntary resettlement should be avoided by analysing alternative project designs and locations. If it is unavoidable, the promoter, with full involvement in the decision-making process of all stakeholders, and in particular the affected people, should adopt adequate steps to minimise and mitigate its adverse impacts from an early stage. Resettlement is a process to assist those displaced to replace their housing, assets, livelihoods, land, access to resources and services and to improve or at least restore their socioeconomic and cultural conditions to those levels existing prior to the project.¹

Objectives

4. The objectives of this Standard are to:

- Avoid or, at least minimise, project-induced resettlement whenever feasible by exploring alternative project designs;
- Avoid and/or prevent forced evictions and provide effective remedy to minimise their negative impacts should prevention fail;
- Ensure that any eviction which may be exceptionally required is carried out lawfully, respects the rights to life, dignity, liberty and security of those affected who must have access to an effective remedy against arbitrary evictions;
- Respect individuals', groups' and communities' right to adequate housing and to an adequate standard of living, as well as other rights that may be impacted by resettlement;
- Respect right to property of all affected people and communities and mitigate any adverse impacts arising from their loss of assets, or access to assets and/or restrictions of land use, whether temporary or permanent, direct or indirect, partial or in their totality. Assist all displaced persons to improve, or at least restore, their former livelihoods and living standards and adequately compensate for incurred losses, regardless of the character of existing land tenure arrangements (including title holders and those without the title) or income-earning and subsistence strategies;
- Uphold the right to adequate housing, promoting security of tenure at resettlement sites;

¹ "All persons, groups and communities have the right to alternative land of better or equal quality and housing that must satisfy the following criteria for adequacy: accessibility, affordability, habitability, security of tenure, cultural adequacy, suitability of location, and access to essential services such as health and education." Basic Principles and Guidelines on development-based evictions and displacement - Annex 1 of the report to the Human Rights Council of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living (A/HRC/4/18) See http://www.ohchr.org/Documents/Issues/Housing/Guidelines_en.pdf

- Ensure that resettlement measures are designed and implemented through the informed and meaningful consultation and participation of the project-affected people throughout the resettlement process;² and,
- Give particular attention to vulnerable groups, including women and minorities, who may require special assistance and whose participation should be vigilantly promoted.³

Definitions

5. Adequate housing, according to human rights law, must at minimum meet the following criteria⁴:

- (i) Security of tenure provides occupants with legal protection against forced evictions, harassment and other threats. People living in informal settlements and communities usually lack security of tenure.
- (ii) Availability of services, materials, facilities and infrastructure: occupants of housing that is adequate must have access to safe drinking water, sanitation and washing facilities, energy for cooking, heating and lighting, food storage, refuse disposal, site drainage and emergency services;
- (iii) Affordability: the cost of housing must not threaten occupants' ability to satisfy other basic needs, nor must it compromise their security of tenure e.g. because high rent exposes them to lawful eviction for non-payment;
- (iv) Habitability: adequate housing must guarantee occupants' physical safety and provide adequate space and protection against the cold, damp, heat, rain, wind, and other threats to health and structural hazards;
- (v) Accessibility: adequate housing must be accessible to everyone, so that the specific needs of disadvantaged and marginalised groups, such as the elderly, persons with physical or mental disabilities, and children must be taken into account;
- (vi) Location: housing must be situated so as to allow access to employment opportunities, health-care services, schools, childcare centres and other social facilities. It must not be located in polluted or dangerous areas; and
- (vii) Cultural adequacy: housing must permit the expression of cultural identity, for example, through methods of house construction and building materials.

In order to ensure security of the home, adequate housing should also include the following essential elements: privacy and security; participation in decision-making; and access to remedies for any violations suffered. In addition to these general United Nations High Commissioner for Human Rights (OHCHR) criteria, adequate housing needs to be contextualised and interpreted in light of the local standards and relevant legislation.

6. Compensation refers primarily to the cost of payment for expropriated land (including trees and crops that cannot be harvested), housing, structures, and other fixed assets, including assets acquired for temporary project use. It includes the costs incurred to help directly acquire substitute properties as well as the cost of acquiring resettlement sites. Compensation applies to vendors, enterprises, and other commercial operations, as well as residential units (households).

7. Compulsory possession refers to the process whereby the promoter is entitled to take possession of property required for the realisation of the project and duly designated as such, although there may be

² Standard 10 provides further details regarding EIB standards on Stakeholder Engagement.

³ Standard 7 provides further details regarding EIB standards on Rights and Interest of Vulnerable Groups.

⁴ The Right to Adequate Housing, UN Habitat, Office of the United Nations High Commissioner for Human Rights, Fact Sheet No. 21/Rev.1. See <http://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf>.

outstanding grievances and/or pending court judgements concerning the involuntary acquisition or valuation of such asset.

8. Cut-off date is set primarily to determine the affected population and their eligibility needs. It is usually the date of the census for identification of persons who will be affected by the project. The cut-off date may also be the date the project area was delineated, prior to the census, provided that there has been an effective public dissemination of information on the area delineated, and systematic and continuous dissemination subsequent to the delineation to prevent further population influx.⁵

9. Entitlement refers to a range of measures comprising compensation, income restoration, transfer assistance, income substitution, and relocation which are due to affected persons, depending on the nature of their losses, to restore their economic and social base.

10. Forced evictions concern “acts and/or omissions involving the coerced or involuntary resettlement of individuals, groups and communities from homes and/or lands and common property resources that were occupied or depended upon, thus eliminating or limiting the ability of an individual, group or community to reside or work in a particular dwelling, residence or location, without the provision of, and access to, appropriate forms of legal or other protection”.⁶ Forced evictions constitute violations of a range of internationally recognised human rights, including the human rights to adequate housing, food, water, health, education, work, security of the person, freedom from cruel, inhuman and degrading treatment, and freedom of movement.

11. Host community is the community residing in the areas that had been identified as the new locations as part of resettlement remedial action. These may encompass the actual neighbourhoods/villages/towns where the project-affected persons are resettled to, or may simply neighbour the new settlements but have interaction with, or otherwise be impacted by, the new resettled communities.

12. Involuntary resettlement refers to: (a) physical displacement (i.e. physical relocation of residence or loss of shelter), and/or (b) economic displacement (i.e. loss of assets or access to assets that leads to loss of income sources or means of livelihood) as a result of project-related land acquisition or restriction of access to natural resources.

13. Resettlement is considered involuntary when affected individuals or communities do not have the right to refuse land acquisition resulting in displacement. Involuntary resettlement can be caused by environmental degradation, natural disasters, conflicts or development projects. Even if the resettlement is prompted by public safety concerns (such as natural hazard-induced displacement), it is still considered involuntary if the resettled population has no choice to remain at their location. The involuntary resettlement is associated with loss of housing, shelter, income, land, livelihoods, assets, access to resources and services, among others. These losses occur as a consequence of declaring a public purpose in cases of: (a) land acquisition, (b) expropriation or restrictions on land use based on eminent domain, (c) forfeiting of a livelihood/subsistence strategy dependant on the use of natural resources, and/or (d)

⁵ As provided in the World Bank Involuntary Resettlement Sourcebook: Planning and Implementation in Development Projects (2004) Washington, DC.

⁶ Basic Principles and Guidelines on Development-based Evictions and Displacement from Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living. A/HRC/4/18.

negotiated settlements in which the buyer can resort to expropriation or impose legal restrictions on land use if negotiations with the seller fail⁷.

14. Conversely, resettlement is considered voluntary when affected persons have the right to refuse land acquisition or engage in open market transactions. Voluntary resettlement implies that the people involved: (i) are fully and a priori knowledgeable about the project and its implications and consequences; (ii) agree freely to participate in the project; and (iii) have the option to agree or disagree with the land acquisition, without adverse consequences imposed formally or informally by the state.

15. Land acquisition connotes the process whereby a person is compelled by a government agency to alienate all or part of the land that person owns or possesses to the ownership and possession of the government agency for public purpose in return for compensation. It includes purchases or leasing of land and purchases or leasing of access rights (way-leave).

16. Project-affected persons (PAPs) refers to all persons impacted by the involuntary resettlement, including all members of a household (women, men, girls, boys, incl. several generations in the case of extended households); the owner and employees of a business; members of an ethnic minority group; tenants; land owners and sharecroppers; informal settlers (i.e. lacking formal titles); holders of customary land-rights; informal business-operators and their employees/assistants. Eligible PAPs may be in any of the following situations: (i) have formal legal rights to the land/structure they occupy; (ii) do not have formal legal rights to land, but have a claim to land that is recognised or recognisable under the national laws (e.g. ancestral, traditional lands); (iii) are dependent on the impacted land for their livelihood by way of customary access to natural resources; (iv) have no recognisable legal right or claim to the land or structure they occupy; and/or (v) economically displaced persons who face loss of assets or access to assets. It is important to note that PAPs are not household units or merely heads of households and different individuals will be differently impacted by the resettlement. For example, gender dynamics need to be duly observed and taken into account throughout the process.

17. Replacement Cost refers to the value determined to be fair compensation for: (i) land, based on its productive potential; (ii) houses and structures, based on the current market price of building materials and labor without depreciation or deductions for salvaged building material, and (iii) residential land, crops, trees, and other commodities, based on their market value. Such cost needs to further account for any removal costs, utility connection costs, taxation costs imposed on new housing/re-established businesses etc. Where markets do not exist, surrogate values must be determined.⁸

18. Restriction of access to natural resources includes, for example, loss of access to marine fishing grounds, loss of access to sub-surface customary mineral rights by artisanal miners, loss of access to grazing land as a result of project activities.

19. Resettlement Action Plan (RAP) is the document in which the promoter of a project or other responsible competent authority describes the impacts of the involuntary resettlement, specifies the procedures that will be followed to identify, evaluate and compensate the impacts and defines the actions to be undertaken during all phases of the resettlement.

⁷ Adapted from IFC Guidance Note 5: Land Acquisition and Involuntary Resettlement (2012).

⁸ As adapted from the World Bank Involuntary Resettlement Sourcebook: Planning and Implementation in Development Projects (2004) Washington, DC.

20. Resettlement Policy Framework (RPF) is a document similar to a RAP carried out when the exact physical and/or economic displacement is unknown due to the nature (existence of multiple components or sub-projects) and/or stage of development of the project. This is typically the case for linear infrastructures. The document should include a commitment for the later implementation of a RAP, outline the general principles of resettlement that shall apply to the (sub-)project(s) and establish the criteria that shall make it necessary to develop a RAP for the underlying (sub-)project(s).

Scope

21. This Standard applies to all components of operations financed by the EIB, including associated facilities, which result in involuntary resettlement. It may further apply to activities resulting in involuntary resettlement that in the EIB's judgment are (a) directly and significantly related to the EIB-supported project; (b) necessary to achieve its objectives as set forth in the project documents; and (c) carried out, or planned to be carried out, contemporaneously with the project. Standard 6 shall not apply to instances where resettlement is considered voluntary and conducted as an open market transaction.

22. Standard 6 is of particular relevance where (a) there are identified gaps between national land acquisition, expropriation and compensation standards and practices and the present Standard; (b) the institutional responsibilities regarding resettlement are complex with several different governmental or non-governmental agencies involved in the process; and (c) there is a risk of underestimating the scope of the required resettlement. This Standard is to be duly cross-referenced with the other EIB Standards and accordingly implemented.

Principles

23. This Standard is consistent with and supports international and EU human rights law.⁹ It specifically supports the right to property, to adequate housing and standard of living and food.¹⁰ The right to adequate housing of those affected by involuntary resettlement under EIB-supported projects and associated operations, shall be respected with non-discrimination as a central human rights principle. This applies to affected persons, groups and communities subjected to involuntary resettlement as well as host communities at relocation sites. It applies to all such persons, whether or not they hold a legal title to their home or property under domestic law. To ensure respect for this right in practice, certain procedural safeguards must be in place, such as involvement of affected persons in decision-making processes and access to grievance mechanisms, as further described in this Standard.

24. The right to housing is one component of the right to an adequate standard of living. Other components include the right to adequate food, clothing and to continuous improvement of living conditions. Resettlement of project-affected persons can threaten their standard of living, for instance,

⁹ Universal Declaration of Human Rights (1948), International Covenant on Economic, Social and Cultural Rights (1966), the Charter of the Fundamental Rights of the European Union (2000). UN Basic Principles and Guidelines on Development-based Displacement and Evictions http://www.ohchr.org/Documents/Issues/Housing/Guidelines_en.pdf. UN Guiding Principles on Business and Human Rights http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf. UN Guiding Principles on Internal Displacement - <http://www.idpguidingprinciples.org/>

¹⁰ Some of the most important international guidelines and practice on this issue are: (a) The UN Basic Principles and Guidelines on Development-based Evictions and Displacement presented in the annual report to the UN Human Rights Council by the UN Special Rapporteur on adequate housing, Miloon Kothari, 2007; and (b) U.N. CESCR, General Comment No. 7: The Right to Adequate Housing: Forced Evictions, 16th Sess., U.N. Doc. E/1998/22 (1997) Arts. 7, 17 & 18.

through loss of access to employment or loss of access to natural resources where communities depend for their livelihood on land or resources attached to the land such as water sources, fishing or hunting areas.

25. People are entitled to enjoy the right to an adequate standard of living without discrimination on grounds such as gender, race, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth or other status. This entails the requirement to give special consideration to the position of groups at risk of vulnerability or marginalisation such indigenous and tribal peoples and pastoralists.¹¹

26. The promoter is required, as a minimum, to restore the living conditions of those affected by the project and ideally, to work on the continuous improvement of their living conditions.

27. In addition, the EIB is committed to upholding the Aarhus Convention, which emphasises the citizens' rights to justice, to be consulted and to enjoy access to information on projects and plans and programmes that will have environmental and social impacts on them, their assets and their lives.

28. Forced evictions shall not take place. In rare cases when they do, evictions must be carried out lawfully, only in exceptional circumstances and in full accordance with relevant international human rights and humanitarian law.

29. Experience with involuntary resettlement underlines the importance of planning and managing it properly as early as possible in the project life cycle, in consultation with all key stakeholders.

Requirements

Overarching Requirements

Census, Baseline Data and Cut-Off Date

30. The promoter is required to carry out a census and a socio-economic baseline survey to establish the number of people to be displaced, livelihoods affected, and property to be compensated. The surveys should take into account persons affected through anticipated cumulative impacts of the resettlement. The census date is usually also a cut-off date for eligibility claims. The cut-off date may also be the date of the project area delineation, prior to the census, but only following an effective and documented public information dissemination on the area delineated, and systematic and continuous dissemination subsequent to the delineation to prevent further population influx. The census should include an inventory of losses (assets, access to resources or services, etc.), a detailed measurement survey and valuation of lost assets, and it covers the total affected population. The socioeconomic baseline survey can be derived from a sample survey and is critical in identifying the current socio-economic, cultural and political profile of the affected persons; their levels of overall resilience or vulnerability; and ensuing degrees and sorts of impacts. The census and the baseline survey are ideally done in parallel. Alternatively, the socioeconomic survey is done at the preliminary project design stage and the census by the time of

¹¹See EU Guidelines on Land (2004): <http://ec.europa.eu/development/icenter/repository/EU_Land_Guidelines_Final_12_2004_en.pdf> and the Food and Agriculture Organization's (FAO) Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (2012): <<http://www.fao.org/docrep/016/i2801e/i2801e.pdf>>

the final detailed design. Either way, it is important to consider the timing of safeguards tasks in the project cycle.

31. Cut-off dates determine the eligibility for compensation of project-affected persons. Therefore, they represent the actual date that the project-affected persons' assets and infrastructure at a particular site were recorded during the census survey. Assets like land, structures and others, which are created, encroached or acquired by individuals or groups, after the cut-off dates, will not be eligible for compensation. Issuance of a cut-off date requires the simultaneous clear, public and accessible disclosure of the imminent project activities on the site concerned and their relevant implications for peoples' lives. As the cut-off date is specified in the RAP, it is discussed and agreed with the EIB as part of the RAP preparation process.

32. A census may be revisited in cases when a long time has lapsed between the census undertaking and the implementation of the RAP.

Eligibility Criteria

33. Any person negatively affected by the project is eligible for compensation, livelihood restoration and/or other resettlement assistance.

34. People with formal land title, land use rights, customary or traditional rights to the land as well as those who occupy/use the land but have no formal title for objective reasons are eligible for compensation for land. People who occupy the land but have no formal or informal claim to it, such as squatters, shall be provided resettlement assistance in lieu of compensation for the land they occupy, and other assistance, as necessary, to achieve the objectives of the resettlement standards laid out in this Standard, if they occupy the project area prior to a cut-off date established by the promoter and acceptable to the EIB. Such affected persons shall not be compensated for land but for their land improvements or structures, such as houses and/or small businesses, and may qualify for other resettlement and rehabilitation assistance. Resettlement assistance can consist of land, cash, jobs, or other forms of assistance determined in consultation with affected people and acceptable to the promoter. Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance.

35. In addition, seasonal resource users may not be present in the project area during the time of the census and thus appropriate consultation techniques should be used to identify those PAPs.

Relocation Sites

36. Relocation sites shall fulfil as a minimum the following conditions:

- not be situated on polluted land or in immediate proximity to pollution sources that threaten the right to mental and physical health of the inhabitants;
- not be located in zones identified as potentially subject to disaster risk followed by a natural hazard;
- not be threatened by (imminent) eviction (e.g. public right-of-way), thereby augmenting the multiplying effect of the original displacement impact;
- be identified taking into account their adequacy in terms of (a) legal security of tenure; (b) availability of services, materials, facilities and infrastructure; (c) affordability; (d) habitability; (e) accessibility; (f) potential for further development; (g) have the capacity to accommodate influx of new settlers at acceptable density levels; and (h) location, and cultural adequacy;

- not be on land used by communities which have been displaced as a result of violence or conflict;
- be available and have the capacity to absorb the influx of resettled persons at acceptable density levels, i.e. resettlement should not lead to new resettlement.

37. Affected stakeholders should be consulted on the choice of sites and, as far as possible, offered choices among sites. In cases of physical resettlement, alternative housing should be situated as close as possible to the original place of residence and source of livelihood of those displaced, where possible. Identified relocation sites shall fulfill as a minimum the criteria for adequate housing as identified in the General Comment 4 of the UN Committee on Economic, Social and Cultural Rights, including: (a) security of tenure; (b) services, materials, facilities and infrastructure such as potable water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services, and to natural and common resources, where appropriate; (c) affordable housing; (d) habitable housing providing inhabitants with adequate space, protection from cold, damp, heat, rain, wind or other threats to health, structural hazards and disease vectors, and ensuring the physical safety of occupants; (e) accessibility for disadvantaged groups; (f) access to employment options, health-care services, schools, childcare centres and other social facilities, whether in urban or rural areas; and (g) culturally appropriate housing.¹² If required, an appropriate environmental impacts assessment (EIA) is to be undertaken for the resettlement site.

38. In cases of economic displacement, and where the asset impacted is arable land constituting the primary and sole source of income and subsistence of the affected household, it is equally advisable that land-for-land compensation is suggested, situated as close as possible to the original place of residence.

Compensation and Income Restoration

39. All affected persons will be paid fair compensation in good time for expropriated assets. Compensation should be provided for any loss of personal, real or other property, goods or assets, including rights or interests in property, for instance, land plots and house structures, contents, infrastructure, mortgage or other debt penalties.

40. Where land has been taken, affected persons should be compensated with land of commensurate quality, size and value, or better.

41. The promoter is required to offer to the affected persons an informed choice of either compensation in kind (land-for-land; land plot and house to replace affected land plot and house) or monetary compensation at the outset. The promoter is expected to comply with the choice stated by the affected persons. Whenever replacement land is offered, affected households should be provided with land for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the land taken. In exceptional cases when this is not possible, adequate compensation must be provided. Monetary compensation shall take into account full replacement cost based on market value, productive potential, or equivalent residential quality, including any administrative charges, title fees, or other legal transaction costs.¹³

42. The value of any improvements to the land, business losses, equipment, inventory, livestock, trees, crops and lost wages or income must also be compensated, along with economically assessable damage,

¹² Source: United Nations Committee on Economic, Social and Cultural Rights' General Comment 4, Section 8 (1991).

¹³ As adapted from World Bank Involuntary Resettlement Sourcebook: Planning and Implementation in Development Projects (2004) Washington, DC.

including: property or interests in property, goods, assets, use-rights or rights of access to natural resources, loss of life or limb; physical or mental harm; lost opportunities, including employment, education and social benefits; material damages and loss of earnings, including loss of earning potential; moral damage; costs required for legal or expert assistance, medicine and medical services, and psychological and social services; and costs of salvage and transport. To enable affected persons to make productive use of cash compensation, it should be paid in its entirety and in a timely manner.

43. In cases of loss of housing, replacement housing offers must satisfy criteria of adequate housing, as defined above. Compensation for houses and other structures should be equivalent to replacement cost plus relocation costs. Depreciation of assets or the value of salvage materials shall not be deducted from the value of replacement cost.

44. The situation of any project-affected persons who were subject to substandard living conditions prior to the project is to be improved following displacement.

45. Where the option of cash compensation or alternative accommodation is provided, the cost estimates for providing alternative accommodation could be used for calculating cash compensation payable. For movable structures, such as kiosks or stalls, comparable replacement sites should be offered. A good practice is to calculate replacement cost for such structures as the cost of alternative sites, the cost of replacing improvements (such as foundations), and relocation expenses or other transaction costs.¹⁴

46. The promoter is required to have made the payment by check or deposited beforehand the agreed compensation (as per valuation undertaken) to an individual or joint account for the affected person's access.

47. The promoter must ensure that compensation and income restoration measures are implemented without discrimination based on gender, race, ethnicity, religion, disability or other prohibited grounds. Regarding gender, the promoter must ensure equal treatment of women during compensation and income restoration processes, especially with regard to women's rights and interests in land, property, assets, and compensation and relocation assistance, even where these are not recognised in formal law. Within household units, it is encouraged that titles of replacement land and structures are issued in the names of the head of household and his wife, rather than merely the former.

Resettlement Assistance

48. Regardless of the circumstances and without discrimination, the promoter will ensure that affected persons or groups identified in the census, especially those who are unable to provide for themselves, have, during and after resettlement, safe and secure access to: (a) essential food, potable water and sanitation; (b) basic shelter and housing; (c) appropriate clothing; (d) essential medical services; (e) livelihood and subsistence sources; (f) fodder for livestock and access to common property resources previously depended upon; and (g) education for children and childcare facilities.¹⁵

¹⁴ As adapted from World Bank Involuntary Resettlement Sourcebook: Planning and Implementation in Development Projects (2004) Washington, DC. For further detailed guidance on compensation valuation, see: <[http://www4.worldbank.org/afr/ssatp/Resources/HTML/GenderRG/Source%20%20documents%5CTool%20Kits%20&%20Guides%5CDesigning%20Projects/TLPRO10%20invol%20resettlement sourcebookWB.pdf](http://www4.worldbank.org/afr/ssatp/Resources/HTML/GenderRG/Source%20%20documents%5CTool%20Kits%20&%20Guides%5CDesigning%20Projects/TLPRO10%20invol%20resettlement%20sourcebookWB.pdf)>

¹⁵Source: Basic Principles and Guidelines on Development-Based Evictions and Displacement. Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living. A/HRC/4/18

49. When possible, resettlement should also provide opportunities to affected and host communities to improve social and public infrastructure with the aim of contributing to the sustainable socio-economic development of their members.

Consultation

50. Resettlement is often a complex process involving a variety of stakeholders, including project-affected people, host communities, the promoter, community-based organisations (CBOs), non-governmental organisations (NGOs) and a multitude of governmental agencies, national and local. It is crucial that the promoter identifies and consults with all persons and communities involved in the resettlement process, including the host communities who will receive those who are resettled. All relevant stakeholders must be given the opportunity for informed participation in resettlement planning with the goal that the mitigation of the adverse project impacts is appropriate and the potential benefits of resettlement are sustainable. Consultation will continue in accordance with Standard 10 on Stakeholder Engagement and during the implementation and monitoring of the resettlement process.

51. In line with this, opportunities for dialogue and consultation must be extended effectively to the full spectrum of affected persons, paying particular attention to the full participation in the consultation process of women, vulnerable and marginalised groups, in accordance with Standard 7, and, where necessary, adopting additional/complementary special measures or procedures. Limiting such consultation to heads of communities and/or households alone risks missing key gender dynamics in households and, as a result, further deteriorating the standing of women. It is therefore important to hold also separate consultations with women only, possibly broken down by different age groups.

52. Wide consultation within each household unit is critical in cases of extended families, if conflicts are to be effectively mitigated.

Grievance Mechanism

53. The promoter shall set up and maintain a grievance mechanism that is independent, free and in line with the requirements set out in Standard 10 and that will allow prompt addressing of specific concerns about compensation and relocation from the affected people and host communities and other directly involved entities. The mechanism should be easily accessible, culturally appropriate, widely publicised, and well integrated in the promoter's project management system. It should enable the promoter to receive and resolve specific grievances related to compensation and relocation by affected persons or members of host communities, and use the grievance log to monitor cases and improve the resettlement process.

Forced Evictions

54. Any forced evictions shall be undertaken in full respect for human rights. In rare cases where the promoter is compelled to proceed with compulsory possession, the rationale justifying this action needs to be provided to the EIB in advance. In order to avoid breaching human rights, and in line with the UN Basic Principles for Development-based Evictions and Displacement and other relevant standards, the EIB requires that any such evictions:

(a) are authorized by law;

(b) are carried out in accordance with international human rights standards, including with the procedural protections against forced evictions outlined in General Comment 7 of the UN Committee on Economic, Social and Cultural Rights;¹⁶

(c) are undertaken solely for the purpose of promoting the general welfare;

(d) are reasonable and proportionate with regard to promoting the general welfare; and,

(e) ensure full, fair and timely compensation, rehabilitation and non-regression of rights including the right to an adequate standard of living.¹⁷

55. Before any decision to initiate a process of compulsory possession, the promoter must demonstrate to the EIB that this is unavoidable and that the above conditions can be met in the event that forced evictions are required.

Procedural Requirements

Screening and Appraisal

56. The applicability of Standard 6 to the promoter will be determined during the EIB's environmental and social screening process. The promoter will indicate to the EIB, as early as possible, any expropriation, land acquisition and leasing and/or involuntary movement of people and likely restrictions on access to land, shelter and/or livelihood and subsistence strategies resulting from the proposed investment. If one or more of these potential impacts is identified, the standards laid out in this document will be applied. It is essential that such communication occurs at the very outset of the EIB's engagement, so as to allow for a timely introduction of ex-ante resettlement action.

57. In so doing, the promoter will identify the nature and magnitude of the likely involuntary resettlement, explore alternative designs that might minimise displacement and provide information on the capacity of Sponsors or the competent public authorities to support the processes involved (e.g. approaches to issues of land acquisition and compulsory purchase; procedures for handling disputes, land registration, and the provision of social safety nets). The promoter will also outline the required resources, including funding, staff, and time required to carry out any resettlement activities as per EIB standards, including the type and cost of needed technical assistance. The promoter will further address the impoverishment risks (e.g. those resulting from changes from land-based livelihood strategies to wage-based strategies, the sustainability and security of alternative employment strategies, opportunities for employment during project implementation or resulting from the project) and suggest proposed measures for restoring and preferably improving livelihoods. When resettlements relating to the operation have taken place prior to the EIB's involvement, the promoter will provide all relevant information in relation thereto upon request from the EIB.

58. The promoter will provide the EIB with adequate documentation in relation thereto, namely an acceptable Resettlement Policy Framework (RPF) or Resettlement Action Plan(s) (RAP). No work activities shall commence before the promoter has addressed the involuntary resettlement in a manner consistent with the principles and standards presented here and satisfactory to the EIB.

Planning Tools

¹⁶ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 7: The right to adequate housing (Art.11.1): forced evictions, 20 May 1997, E/1998/22, available at: <http://www.refworld.org/docid/47a70799d.html>.

¹⁷ The UN Basic Principles and Guidelines on Development-based Evictions and Displacement. See <http://www.ohchr.org/Documents/Issues/Housing/Guidelines_en.pdf>

60. Given that EIB works with both the private and public sector alike, it is important to note that the roles and responsibilities in the resettlement process may vary on the promoter's side, depending on the type of the promoter. Regardless of whether the promoter is from the public or private sector, public authorities usually play a central role in the land acquisition and resettlement process, including the determination of compensation, and is therefore an important stakeholder in most situations.

61. To help avoid expropriation and the need to turn to public authorities to enforce relocation, both private and public sector promoters are advised to use negotiated settlements and facilitate resettlement on voluntary basis (i.e. acquire land through voluntary sale at market price) or consider different locations. It is important to document when the sale is voluntary. However, when the project location is fixed and involuntary resettlement is unavoidable, direct involvement of private sector promoters is encouraged so as to contribute to more integrated cost-effective, efficient, and timely implementation of those activities.

62. In the case of projects involving involuntary resettlement, the promoter will provide the EIB with the relevant RPF and/or RAP(s) that is satisfactory to the EIB and commensurate with the extent and degree of the impacts: the scope of physical and economic displacement and the vulnerability of the affected persons. No involuntary resettlement or forced evictions shall take place before a comprehensive resettlement policy framework or plan consistent with the present Standard and its associated principles is in place. The plan shall clearly indicate how affected populations, including women, minorities and other vulnerable groups have been effectively consulted and how their views were taken into account.

63. A RPF is required for projects where the exact project design and respective footprint and associated impacts (locations and numbers of people impacted by involuntary resettlement) have not been determined or several sub-projects are involved. Once the project design is specified and the necessary information about the project impacts is available, an RPF shall be further developed into Resettlement Action Plan(s). The promoter is responsible for preparing, implementing, and monitoring the relevant RPF/RAP (s) complying with this Note.

64. A RAP) is required for all operations that entail involuntary resettlement unless otherwise specified.

65. Both RPFs and RAPs need to include measures to ensure that the displaced persons are:

- (i) informed about their options and rights pertaining to resettlement;
- (ii) effectively consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives which take into account the suggestions made by the affected community as much as possible;
- (iii) provided prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project;
- (iv) provided assistance (such as moving allowances) during relocation;
- (v) provided with residential housing, or housing sites, or, as required, agricultural or business sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site (in exceptional cases when this is not possible, adequate compensation must be provided);
- (vi) offered compensation for loss of income for a transition period as a form of support after resettlement, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living. Compensation for loss of income is initially advised for the first three (3) months; only a singular repetition of this period is foreseen, not exceeding a total of six (6) months whereby loss of income may be compensated for;

- (vii) offered assistance for livelihood restoration or improvement through provision of training, credit, job placement, and/or other types of assistance; and,
- (viii) offered an appropriate grievance mechanism that will allow prompt response to specific concerns related to compensation and resettlement by affected people and host communities.

66. The promoter shall develop a RPF/RAP in line with the EIB requirements and will have to receive EIB's non-objection before implementation. Arrangements for the implementation of the plan(s) will be agreed with the EIB and will be incorporated into the RAP and the project finance contract.

Resettlement Action Plan (RAP)

67. Displaying due regard for the equal protection of women and vulnerable groups or minority rights, the RAP delineates measures to:

- a) mitigate the negative impacts of resettlement and identify potential development benefits;
- b) assure that the rights and interests of project-affected people are respected and protected, in particular those deemed vulnerable;
- c) establish the entitlements of all categories of affected people, including the host communities;
- d) introduce any additional accompanying measures for vulnerable affected persons, if relevant;
- e) document all compensation measures and relocation activities;
- f) establish procedures to document all compensation measures and relocation activities and guarantee due process to the affected people, such as meaningful consultation, adequate information to the affected people and sufficient notice before eviction, together with a free and independent grievance mechanism; and
- g) establish organisational arrangements and procedures to monitor the implementation of resettlement plans and take corrective actions as necessary.

68. At a minimum, the RAP should:

- a) state the resettlement guiding principles and objectives;
- b) describe the nature and magnitude of project impacts and identify all people to be displaced, paying special attention to vulnerable groups;
- c) carry out a census to establish the number of people to be displaced, livelihoods affected, property to be compensated and the cut-off date for eligibility claims;
- d) describe the legal framework expected to guide this Plan's land acquisition (when applicable), compensation, resolution of conflicts and appeals procedures;
- e) include an analysis of applicable national legislation, highlighting gaps with EIB requirements and required bridging measures;
- f) propose how to fill the gaps between national law and EIB requirements should such gaps be identified;
- g) describe institutional set-up and responsibilities;
- h) establish the eligibility criteria and describe the entitlements for all categories of displaced people and types of impacts suffered;
- i) describe how affected populations, including women, minorities and other vulnerable groups, have been effectively consulted and how their views were taken into account;
- j) include valuation of and compensation for lost assets and loss of income and demonstrate that these rates are adequate, i.e. at least equal to the replacement cost of lost assets/income or meeting minimum average wage thresholds;
- k) provide details of sustainable arrangements for improving the standards of living of displaced persons;
- l) provide details of sustainable arrangement for improving or, at minimum, restoring livelihoods;

- m) prepare a grievance mechanism for the settlement of disputes arising from resettlement related issues¹⁸ ensuring access to grievance and recourse for all affected persons; and,
- n) include implementation schedule, budgets, and arrangements for monitoring and evaluation.

Resettlement Policy Framework (RPF)

69. The RPF is a document clarifying:

- a) the resettlement principles to be observed;
- b) organisational arrangements guiding resettlement action;
- c) the associated legal framework, due process, entitlements, procedures;
- d) design criteria to be applied to sub-projects;
- e) estimate – to the extent feasible – of the total population to be displaced and the overall resettlement impacts and costs;
- f) disclosure, consultation and participation principles; and,
- g) grievance redress provisions.

Implementation and Monitoring

70. The promoter's obligations to implement a RAP and to report to the EIB on implementation progress will be provided for in the project's legal agreements. The promoter shall set up necessary systems (i.e. resources, staff, and procedures) to monitor the implementation of a RAP on a regular basis and take corrective action as necessary. Affected persons will be consulted as part of the monitoring activities. The implementation and effectiveness of the resettlement action plan shall be subject to monitoring and review by qualified resettlement specialists and/or other independent third parties as appropriate and commensurate to the scale and risks involved in the resettlement.

71. Implementation of a RAP will be considered completed when the adverse impacts of resettlement have been addressed in a manner that is consistent with the relevant plan and requirements outlined in this Standard. It is good practice for the promoter to present to the EIB an accountability report upon the completion of the RAP implementation, prepared by an external party. The accountability audit will include, at a minimum, a review of the mitigation measures implemented by the promoter, a comparison of implementation outcomes against agreed objectives, and a conclusion as to whether any follow-up actions and further monitoring are needed.

ESS7: Rights and Interests of Vulnerable Groups

Introduction

1. Some individuals or groups may be less resilient to risks and adverse impacts than others. Within the context of EIB operations, individuals and/or groups who are at a higher risk of being unable to anticipate, cope with, resist and recover from project-related risks and/or adverse impacts are considered vulnerable.

¹⁸ The promoter shall ensure that adequate and effective legal or other appropriate remedies are available to any person claiming that his/her right to protection against forced evictions has been violated or is under threat of violation. A/HRC/4/18

Vulnerable individuals or groups may include women, children, the elderly, the poor, ethnic, religious, cultural or linguistic minorities, or indigenous groups.

2. Vulnerability is not inherent and does not occur in a vacuum. Women for instance are not inherently more vulnerable than men; but discrimination, entrenched social roles and attitudes, poverty and lack of access to decision-making can weaken their resilience and render them vulnerable to adverse project impacts. Vulnerability is thus context-specific and is to be understood through the interplay of three factors: (1) exposure to risk and adverse impacts; (2) sensitivity to those risks and impacts; and (3) adaptive capacity.

3. Vulnerable individuals and groups (1) are usually exposed to several risks and adverse impacts at once; (2) are more sensitive to those risks and impacts, having been subject to pre-existing discrimination, financial, socio-economic, cultural and/or gender inequalities, of their geographical location, their dependence on the environment and/or limited or no access to justice and decision-making; and (3) have a weaker adaptive capacity for coping with those risks and recovering from those impacts, due to limited access to necessary assets and/or resources¹⁹. As a result, they risk being disproportionately affected by project-related risks and adverse impacts.²⁰

Objectives

4. Standard 7 sets out to avoid or minimise, or otherwise mitigate and remedy²¹, potential harmful effects of EIB operations to vulnerable individuals and groups whilst seeking that these populations duly benefit from such operations. As a means to foster those project outcomes, Standard 7 proposes a framework and tools to address inequalities and other factors contributing to vulnerability, and, as appropriate, to allow for equal access to and enjoyment of project benefits for those individuals and groups.

5. Specific objectives are to:

- Affirm, respect, and protect the rights and interests of vulnerable individuals and groups within the designated operational scope, throughout the project lifecycle. Such rights include the right to non-discrimination, the right to equal treatment between women and men and the rights of indigenous peoples;
- Adopt a gender-sensitive approach to the management of environmental and social impacts, that takes into account the rights and interests of women and girls, men and boys, including specific attention to the differentiated burden of impacts that women and girls might face;
- Identify and avoid adverse impacts of EIB operations on the lives and livelihoods of vulnerable individuals and groups, including women and girls, minorities and indigenous peoples. Where avoidance is not feasible, to reduce, minimise, mitigate or effectively remedy impacts;
- Ensure that vulnerable individuals and groups are duly and early on identified in EIB operations and that engagement is meaningful, taking into account individuals' and communities' specificities, and delivered in an appropriate form, manner and language; and

¹⁹ Including social, physical, financial, natural, human and cultural assets, and technological resources, knowledge and governance.

²⁰ As adapted from World Bank SDCC Learning in Focus: Vulnerability, exposure, sensitivity and adaptive capacity

²¹ Echoing Article 2 of the International Covenant on Civil and Political Rights, Article 2, para. 2 of the International Covenant on Economic, Social and Cultural Rights

- Enable vulnerable groups, including women and girls, minorities and indigenous peoples to benefit from EIB-financed operations.

6. This Standard is to be applied in synergy and cross-reference with EIB's other Standards, as relevant.

Definitions

7. Non-discrimination is a crosscutting and fundamental principle, applying to everyone in relation to their full enjoyment of all human rights and freedoms. It is enshrined in Article 21 of the Charter of Fundamental Rights of the European Union and Article 1 of the Universal Declaration of Human Rights (UDHR). The principle of non-discrimination requires the establishment of equality in fact as well as equality in law. Equality in law precludes discrimination on any ground such as sex, age, race, colour, physical ability, religion, language, political or other opinion, ethnicity, national or social origin, property, birth or other status. Equality in fact may require differential treatment (i.e. positive discrimination) in order to attain a result which establishes an equilibrium between different situations.²²

8. Vulnerability is determined by (1) the exposure to risks, shocks, and stress situations befalling people, (2) their sensitivity to those risks, shocks and stress situations, and (3) the means they possess to withstand or adjust to damaging loss. Vulnerability can be understood in terms of a lack of resilience to changes that threaten welfare; these can be environmental, economic, social and political, including those linked to project impacts. Such changes usually bring risk and uncertainty. Poverty, isolation, insecurity, entrenched social attitudes, gender roles, systemic discrimination and language barriers, amongst others, constitute causal factors for the emergence or reinforcement of vulnerability.

9. Vulnerable groups are population groups that suffer from discrimination, unequal access to rights, unequal access to and control over resources or unequal access to development opportunities. As a result, they may be poorly integrated into the formal economy, may suffer from inadequate access to basic public goods and services, may be excluded from political decision-making, and may therefore face a higher risk of impoverishment and social exclusion. More often than not, the resilience levels of such groups to adverse impacts are lower. Such groups may include ethnic, religious, cultural, linguistic minorities, indigenous groups, female-headed households, children and youngsters, the elderly, persons with disabilities, and the poor. In conflict zones and post-conflict contexts, certain groups may suffer further (e.g. women and children lacking the capacity to claim heritage from missing parents) and new categories may appear such as refugees, returnees, internally displaced people and demobilized soldiers in need of economic and social reintegration into society.

10. Minorities are population groups sharing an ethnicity, religious beliefs, cultural practices or language or dialect distinct to the majority ethnic, religious, linguistic, cultural identity and practices. Minorities are acknowledged as such, by their sovereign nation-states or the states in which they reside, or by relevant international bodies, ethnic minorities' observatories and monitoring entities. They tend to be subject to unequal or differential treatment, or collective discrimination and exclusion from political decision-making. The definition of minorities may further carry a spatial dimension.

11. Gender dynamics refer to the set of social interactions which assign different social, economic and political roles to women and men in a community. Gender dynamics underpin and reflect unequal access to rights, assets and representation, thereby differentiating women's and men's opportunities to recover from impacts and to benefit from a project.

²² As adapted from the Human Rights Committee's General Comment on Non-discrimination: General Comment no. 18: non-discrimination: 10/11/1989. CCPR General Comment. OHCHR.

12. Indigenous peoples are defined as a distinct social and cultural group, possessing some or all of the following characteristics in varying degrees:²³

- a) Self-identification as indigenous;
- b) A shared experience of oppression or colonisation;
- c) Historical continuity within a given region prior to colonisation or annexation;
- d) Collective entitlement and/or attachment to ancestral lands, territories and natural resources in their habitats and use thereof;
- e) An indigenous language, often different from the national or regional language;
- f) Distinct social, economic and political systems; g) Activity in non-dominant sectors of society;
- h) Distinct languages, spiritual traditions, culture, beliefs and knowledge
- i) Land/natural resources-dependent means of existence; primarily self- sufficient production; and
- j) A shared wish to maintain and develop a distinctive shared identity, spirituality as well as social economic, cultural and political institutions.

In different countries indigenous peoples may for example be referred to as “ethnic minorities”, “aboriginals”, “hill tribes”, “minority nationalities”, and “tribal groups”. Determining whether a particular group is considered indigenous peoples normally requires reference to the concerned country’s own legislation. However, as indigenous people may sometimes not be recognised by their own national context, attention should be paid to evidence of self-identification as indigenous people, to the activity of indigenous people’s representative organisations and institutions, to relevant international or regional intelligence, and to shared IFI knowledge and practice. Finally, the technical judgement of qualified social scientists should be sought.

13. Free, prior and informed consent (FPIC) is a specific right originally acknowledged in the case of indigenous peoples, as recognised in the United Nations Declaration on the Rights of Indigenous Peoples. It is triggered by specific circumstances and strictly defined project impacts (e.g. REDD+ financing). Standard 10 includes reference and guidance on the application of FPIC.

Scope

14. The applicability of this Standard is established during the environmental and social impacts and risks identification process. The implementation of the actions necessary to meet the requirements of this Standard is managed through the promoter’s overall environmental and social management plan, the elements of which are outlined in Standard 1.

Principles

15. The EIB is committed, in line with its position as a body of the European Union, to the European Charter of Fundamental Rights, to the promotion of the full and free enjoyment of all human rights, not to be impeded by instances of discrimination and/or inequality of treatment by the law. The principles and practices established in this Standard are firmly embedded in EU law and the Union’s Charter. The principal human rights relating to this Standard are those entailed under the Equality chapter of the Charter, essentially the right to non-discrimination, to equality before the law, cultural, religious and

²³Based on ILO Convention 169 and the work of the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples.

linguistic diversity, equality between men and women, the rights of the child, the rights of the elderly and the integration of persons with disabilities.

16. The Decision of the European Parliament and of the Council on the External Mandate creates a renewed environment for EIB external operations, which is explicitly aligned with existing high-level commitments made through the European Consensus on Development (Joint statement by the Council, the EP and the EC ref:2006/C 46/01), the Paris Declaration of 2005 and the Accra Agenda for Action of 2008, all with an objective of meeting the Millennium Development goals, specifically poverty alleviation and sustainable development. These commitments resonate in the provisions of this Standard.

Requirements

Overarching Requirements

17. The promoter will take the necessary measures to appropriately manage the risks and adverse impacts of the EIB operation on vulnerable individuals and groups, including on women and girls, minorities and indigenous peoples. In so doing, the promoter will seek to avoid, minimise, or otherwise mitigate or remedy the exposure of vulnerable populations to project-related risks and adverse impacts. As a means to foster those project outcomes, the promoter will properly address discriminatory practices, inequalities and other factors which contribute to vulnerability and will, as appropriate, strengthen the adaptive capacity of vulnerable individuals or groups by promoting inclusive development and benefit sharing.

18. The need for such measures is particularly critical in situations where discrimination is systemic and entrenched, governance is poor or protection of the rights of vulnerable groups is weak, in particular in potential conflict or post-conflict zones. In particular, the promoter will report to the EIB from the very outset the confirmed or potential presence of indigenous or tribal population groups in the area of influence of the EIB financed operation.

Procedural Requirements

Screening

19. During the screening phase, the promoter will identify the individuals and groups who might be vulnerable and at risk of suffering adverse, compounded or disproportionate impacts, be discriminated against or excluded from intended benefits in the given project context. The promoter will ascertain the presence of any groups of peoples with particular rights that will need to be respected, for example indigenous peoples, ethnic minority groups, or children. A high-level analysis of the nature and degree of discrimination and vulnerability already experienced by individuals, communities and/or groups in the context of the project will be performed. If vulnerable individuals or groups are identified, the screening will proceed to determine at minimum:

- a) the main characteristics of the individuals and groups, and the nature of discrimination they suffer and of their vulnerability (including any existing inequalities and exclusion practices);
- b) the country's institutional and legal framework determining the identification of indigenous peoples, minorities and other vulnerable groups, as per this Standard;
- c) the current legal status regarding gender relations and the rights and status of women and girls, indigenous peoples or minorities and associated parameters, such as land tenure indicating basis for recognition, customary use of the land, any potential claims/actions, as relevant within the operation's area of influence;

- d) the type, scope and extent of project-related risks and potential impacts, both positive and negative, on such individuals and groups, against the backdrop of the country's institutional and legal framework and existing or anticipated discriminatory norms and practices against them;
- e) whether and which special measures and specific actions need to be taken to avoid, minimise, or otherwise mitigate or remedy negative impacts on vulnerable individuals and groups, and to reinforce positive effects as appropriate;
- f) the potential shortcomings of the institutional framework to achieve the objectives of this Standard, in particular regarding engagement and implementation; and,
- g) the need for technical assistance or capacity building for the promoter or others facilitating the effective management of risks falling under this Standard.

Appraisal and Monitoring

Social Assessment

20. Where the screening process determines that (i) potential adverse impacts on vulnerable groups are present or (ii) relevant additional information is required, a more in-depth social assessment should be undertaken by the promoter. The assessment should specifically probe into the following elements, including through careful analysis of the legal framework and through collection of baseline data, disaggregated by factors such as gender, ethnicities, age, etc.:

- a) vulnerability profile of affected population;
- b) assessment of the specific context, including legal and institutional parameters;
- c) analysis and assessment of the historical frequency and severity of discrimination, social, economic or political exclusion and marginalisation suffered by the identified population;
- d) the scope and nature of adverse impacts and their effect on the identified population when compounded with their pre-existing vulnerability, and their access to resources and cultural heritage;
- e) specific actions, past or future, to avoid, minimise, or otherwise mitigate or remedy negative impacts and, as appropriate, to reinforce positive effects, including identifying opportunities and actions to promote benefit-sharing modalities for the communities; and
- f) in line with Standard 10, an appropriate engagement, consultation and participation plan, describing relevant consultation mechanisms.

Public Consultation and Participation

21. As set out in Standard 10, consultations are crucial and should be integrated at each stage of project preparation and implementation. In affirming the human rights-based principles of participation, nondiscrimination and transparency in engagement and consultation, the promoter will provide discriminated and affected vulnerable groups as early as possible with all the relevant information about the project (including an assessment of potential adverse effects and projected benefits of the project). This is to be done in a culturally appropriate manner. Under-represented groups on account of gender, poverty or other elements of social vulnerability should be given equal opportunity to voice their opinions and concerns, and these should be accounted for in the project decision-making.

22. Information will be disclosed in the local language(s) and in a manner that is timely, accessible and culturally appropriate, taking into account any vulnerable or minority groups and their right to equitable representation and consideration for their rights, views and interests. It may be relevant and helpful to include other participants, notably representative institutions, Civil Society Organisations/Community Based Organisations (CSOs/CBOs), international and local advocacy groups and academic experts, if a better understanding of the context and an identification of suitable solutions is to be facilitated during the consultation process. Promoters may provide targeted capacity building or other assistance so as to

allow vulnerable individuals or groups impacted by the project to fully and effectively participate in engagement and consultation processes.

Monitoring

23. Long-standing discriminatory perceptions and practices are pervasive and do not eclipse quickly. Guided by this understanding, where this Standard is triggered, the promoter will ensure that the existing monitoring practices are duly adjusted so as to be effectively responsive to the rights and interests of vulnerable population groups, safeguarding them from instances of discrimination and unequal treatment. In this sense, a tailored monitoring system, with relevant and disaggregated indicators that capture the specificities of any vulnerable population groups in the project and track the unfolding of engagement and consultation processes, the impact of the project and the implementation of impact management actions should be put in place. It is further recommended that the promoter, as part of its monitoring activities, maintains regular contact and consults with the relevant CSOs/CBOs and other relevant locally-based organizations (national human rights institutions, universities and research centres, international agencies, etc.).

Indigenous Peoples

24. Indigenous peoples are a specific case in terms of their history, their social and political organisation, their land-dependent livelihood strategies, their rights to self-determination and the need to safeguard both their collective and individual human rights. Where EIB operations encounter, affect or threaten the customary rights and interests of indigenous peoples, and where specific actions and outputs are required from promoters, particular attention to social due diligence is mandated. The UN Declaration on the Rights of Indigenous Peoples (UNDRIP)²⁴ is the guiding document of reference in this respect for the EIB.²⁵ A gender-sensitive approach endeavouring to promote the rights and interests of women and girls in indigenous communities constitutes a further layer of due diligence required.

25. In all instances involving indigenous peoples, an Indigenous Peoples Development Plan must be prepared, abiding by the principle of free, prior and informed consent (FPIC) and accounting, amongst others, for the recognition awarded by the state to the indigenous groups or communities affected, the duty of the state to consult them, the safeguarding of both their tangible and intangible cultural heritage, their link to resources and territories, and considerations of benefit sharing arrangements with them.

²⁴ http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

²⁵ The UN Declaration on the Rights of Indigenous Peoples (UNDRIP) declares that “indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law” (UNDRIP, Art. 1). The Declaration sets out to guarantee the rights of Indigenous peoples to enjoy and practice their cultures and customs, their religions, and their languages, and to develop and strengthen their economies and their social and political institutions. Indigenous peoples have the right to be free from discrimination, and the right to a nationality. Article 3 of UNDRIP recognizes Indigenous peoples’ right to self-determination, which includes the right “to freely determine their political status and freely pursue their economic, social and cultural development”, whilst Article 4 affirms indigenous peoples’ right “to autonomy or self-government in matters relating to their internal and local affairs,” and Article 5 protects their right “to maintain and strengthen their distinct political, legal, economic, social and cultural institutions” Article 26 states that “indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired,” and it directs states to give legal recognition to these territories. The Declaration does not override the rights of indigenous peoples contained in their treaties and agreements with individual states, and it commands these states to observe and enforce the agreements.

26. It is acknowledged that when detailed biodiversity assessments are undertaken as part of an ESIA process in line with Standard 3, indigenous populations often enjoy links to their environment and surrounding natural resources in terms of ancestral land rights, sense of belonging, living grounds, livelihood strategies or cultural heritage ties, which can be of critical significance. As a result, such an assessment should take into account the views, roles and rights of indigenous peoples groups, of relevant NGOs and local communities affected by the project and involve, to the extent possible, such people in the management of natural resources located within the area of influence of the EIB operation. Such assessment ought to ensure that projects take into account the rights and interests of indigenous peoples, as these are related to natural resources, as well as biodiversity conservation concerns.

Indigenous Peoples Development Plan (IPDP)

27. When projects involve indigenous populations, a detailed social assessment duly tailored to the cultural and socio-economic specificities and sensitivities of indigenous communities must be undertaken, which includes the following components:

- a) a review of the legal and institutional framework applicable to indigenous peoples;
- b) baseline information on the demographic, social, cultural and political organisation characteristics of the affected communities, their land, territories or natural resources, as well as linkages to biodiversity considerations;
- c) culturally appropriate consultation mechanisms;
- d) an assessment of risks, vulnerability levels and potential project impacts (both positive and negative), based on free, prior and informed consent with the affected communities;
- e) the identification of measures to prevent, minimise, mitigate or effectively remedy adverse effects, defined in consultation with the affected groups;
- f) the clear and detailed identification of benefit-sharing arrangements, aiming to promote the wellbeing of the IPs;
- g) appropriate and adequate grievance procedures, considering the availability of judicial recourse and customary dispute settlement mechanisms among the indigenous peoples; and,
- h) monitoring and reporting arrangements, including reporting mechanisms and benchmarks appropriate to the project.

28. This information should then feed into the formulation by the promoter of an Indigenous Peoples Development Plan (IPDP) that is consistent with the international human rights of indigenous peoples as well as the expectations of this standard.

29. The IPDP may be free-standing or a component of a broader social management plan in cases where indigenous communities co-exist in the same area with other affected communities. 30. Assurances over the timely disclosure of the IPDP, including outputs linked to the FPIC process, should be provided. The promoter is expected to publicly disclose the final draft of the IPDP to the affected indigenous peoples' communities in an appropriate form, manner, and language. Once adopted and agreed upon by the indigenous peoples and the EIB alike, the promoter will make these documents available to the affected indigenous peoples' communities in the same manner as the earlier final draft documents.

Free Prior Informed Consent (FPIC)

31. The principle of free, prior informed consent (FPIC) refers to the process whereby the affected community of indigenous peoples arrives at a decision in accordance with their legal provisions, cultural traditions and practices. The UN Declaration on the Rights of Indigenous Peoples in 2007 will serve as guidance when implementing the FPIC process.

32. The FPIC process should produce a clear endorsement or rejection by the indigenous peoples concerned of the proposed intervention and a statement of all accompanying mitigating and remedial measures and benefit-sharing agreements. As such, it is the main instrument ensuring that at the project level the indigenous peoples' priorities for economic, social and cultural development and environmental protection are promoted, as duly informed by their traditional cultures, knowledge and practices. It is fundamental to the exercise of their inherent right to self-determination. In those cases where the host government has already approved the project considered by the EIB for financing, the promoter will nonetheless need to verify, by way of the FPIC process, the levels and nature of free, prior and informed consent to the undertaking by the indigenous peoples concerned, as well as the adequacy and compliance with EIB standards of the mitigation measures and benefit-sharing arrangements proposed.

33. Promoters will refer to the relevant section on FPIC in EIB Standard 10 for more elaboration on the principles and requirements guiding the application of FPIC.

Indigenous Peoples Planning Framework

34. In cases where all of the relevant information is not available to develop an IPDP, the promoter may initially be requested to prepare an Indigenous Peoples Planning Framework (IPPF).

35. An acceptable IPPF is conceived as a more high-level, strategic document addressing the steps required for the IPDP undertaking, and is expected to outline in broader terms the following:

- (a) the project background;
- (b) the objectives of the IPPF;
- (c) The strategy for ensuring the effective participation of affected indigenous peoples, including a framework for ensuring free, prior, and informed consent with the affected indigenous peoples' communities at each stage of project preparation and implementation;
- (d) the strategy to ensure that project benefits will accrue to the indigenous peoples, and to mitigate any adverse impacts;
- (e) the institutional arrangements for screening project-supported activities, evaluating their effects on indigenous peoples, preparing an Indigenous Peoples Plan (IPDP), and addressing any grievances;
- (f) a plan for carrying out the social assessment for the IPDP and associated programmes or subprojects;
- (g) the types of programmes and subprojects likely to be proposed for financing under the project;
- (h) the potential positive and adverse effects of such programmes or subprojects on Indigenous Peoples;
- (i) the institutional arrangements for preparing and implementing the IPDP and associated subprojects;
- (j) the disclosure arrangements for the IPDP and associated sub-projects to be prepared under the IPPF;
- (k) the monitoring and reporting arrangements, including reporting mechanisms and benchmarks appropriate to the project; and,
- (l) a budget for formulating and implementing the IPDP and associated sub-projects.

ESS 10: Stakeholder Engagement

Introduction

1. A meaningful engagement process allows for the efficient implementation of a financed operation and, in particular, the early and effective identification, assessment, and management of any environmental and social risks, impacts, and opportunities. The views, interests, and concerns of project affected

communities and other interested stakeholders are heard, understood, and taken into account throughout the project lifecycle.

2. Standard 10 outlines a systematic approach to stakeholder engagement that the promoter is expected to build and maintain by way of a constructive relationship with relevant stakeholders. Stakeholder engagement is an inclusive and iterative process that involves, in varying degrees, stakeholder analysis and engagement planning, timely disclosure and dissemination of/access to information, public consultations and stakeholder participation, and a mechanism ensuring access to grievance and remedy.

Objectives

3. As a public institution, the EIB actively promotes the right to access to information, as well as public consultation and participation; the right to access to remedy, including through grievance resolution, is equally acknowledged and actively promoted by the EIB. Standard 10 affirms the EIB's expectation that promoters uphold an open, transparent and accountable dialogue with all relevant stakeholders at the local level targeted by its EIB operations. This Standard stresses the value of public participation in the decision-making process throughout the preparation, implementation and monitoring phases of a project.

4. Specific objectives arising therefrom for the promoter amount to:

- Establish and maintain a constructive dialogue between the promoter, the affected communities and other interested parties throughout the project life cycle;
- Ensure that all stakeholders are properly identified and engaged;
- Engage stakeholders in the disclosure process, engagement and consultations in an appropriate and effective manner throughout the project lifecycle, in line with the principles of public participation, non-discrimination and transparency;
- Ensure that the relevant stakeholders, including commonly marginalised groups on account of gender, poverty, educational profile and other elements of social vulnerability, are given equal opportunity and possibility to voice their opinions and concerns, and that these are accounted for in the project decision-making; and,
- Duly verify and assess that the quality and process of engagement undertaken by third parties on the project conform to the provisions included in the present standard.

Definitions

5. Broad community support is a collection of expressions by the affected communities, through individuals and their legitimate representatives, in support of the project. There may be broad community support even if some individuals or groups object to the project.

6. Free, prior and informed engagement defines a practice of public consultation and participation that is:

- a. free from external manipulation, interference, or coercion, and intimidation;
- b. based on prior disclosure and dissemination of information;
- c. undertaken on an informed basis with information that is relevant, transparent, objective, meaningful, and easily accessible in culturally appropriate local language(s), and format that is understandable to the affected individuals and communities;
- d. takes into account and is responsive to the needs, rights and interests of both women and men, if necessary through separate forums and engagements; and,
- e. includes targeted capacity building and/or other assistance as necessary to empower impacted individuals and communities, in particular those who are vulnerable and marginalised, to fully and effectively participate in engagement and consultation processes.

7. Free, prior and informed consent (FPIC) should not be confused with the aforementioned practice of free, prior, informed engagement. FPIC is a specific right for indigenous peoples as recognised in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)²⁶ and ILO Convention 169/1989.²⁷ It is triggered by specific circumstances and strictly defined project impacts, as elaborated in Standard 7.²⁸

8. A Grievance Mechanism constitutes the system introduced by the promoter that affords all stakeholders, in particular impacted individuals and communities, the ability to provide feedback, channel their concerns and, thereby, access information and, where relevant, seek recourse and remedy. Such mechanism ought to be effective, by way of being verifiably legitimate; accessible; predictable; equitable; transparent; compatible with human rights; based on engagement and dialogue; and, a source of learning for all stakeholders involved, including the promoter.²⁹ The scope of such a mechanism concerns the entire operation, yet it is not intended to serve employer-workforce relations, as a separate grievance structure is exclusively dedicated to this purpose.

9. Stakeholders are those who will be or are likely to be directly or indirectly affected, positively or negatively, by a project (commonly referred to as project-affected people or project-affected communities), as well as those who might have an interest in, or may influence, the project.

10. A Stakeholder Engagement Plan (SEP) is intended as a blueprint that outlines a project's stakeholder engagement strategy and guides its roll-out. As a rule, it describes the regulatory and/or promoter's requirements for consultation and disclosure; identifies and prioritises key stakeholder groups; provides a strategy and timetable for sharing information and engaging and consulting with each of these groups; describes resources and responsibilities for implementing stakeholder engagement activities; and, describes how stakeholder engagement activities will be incorporated into the promoter's environmental and social management system (ESMS). The same Plan also establishes firm references and links to the operation's grievance mechanism. The scope and level of detail of the plan should be scaled to fit the needs of the project.

Scope

11. The nature and extent of stakeholder engagement will reflect the nature and complexity of the project and its stakeholders, the project risks and potential adverse impacts on individuals, communities and other impacted stakeholders, and the sector. Stakeholder engagement processes will therefore vary across projects and different financing instruments. Beyond any single operation financed by the EIB, stakeholder engagement is recommended as good and necessary practice for promoters to adopt more generally.

12. In addition to this Standard's contents, as set out below, requirements on information dissemination and public consultation are raised in other environmental and social standards to be duly cross referenced

²⁶ http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf 62

²⁷ <http://www.ilo.org/indigenous/Conventions/no169/lang--en/index.htm>

²⁸ For projects that may lead to physical displacement of Indigenous Peoples, the Promoter is required to obtain their Free, Prior, and Informed Consent (FPIC). Additionally, the EIB adheres to good international practice requiring that REDD+ projects apply FPIC, too, whether indigenous populations or forest communities are affected.

²⁹ These being the eight (8) effectiveness criteria of a Grievance Mechanism, as outlined in Principle 31 of the United Nations Guiding Principles on Business and Human Rights:

<http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf>

with the present Standard. Equally, application of Standard 10 in specific contexts and concerning the inclusion of specific groups' opinions should be guided by the relevant requirements entailed in the other Standards.

Principles

13. The principles of public participation, non-discrimination and transparency are integral to sound governance and democratic decision-making in the EU. The EU's primary legislation addresses the issue of participation: the Treaty of Amsterdam fortified the notion of transparency and the basis for consultation, whilst participatory democracy is directly addressed in the Treaty of Lisbon. Principles of good governance are reflected in the White Paper on European Governance,³⁰ which acknowledges the need for greater citizen involvement and openness, and sets out the minimum standards for consultations on EU policies, while national governments remain responsible for nurturing a culture of debate and dialogue as well as improving their own national consultative processes.

14. ESIA undertakings should follow the spirit of the Aarhus Convention. The Aarhus Convention, otherwise known as the UNECE Convention on Access to Information, Public Participation in Decision making and Access to Justice in Environmental Matters, grants the public rights regarding access to information, public participation and access to justice, in governmental decision-making processes on matters concerning the local, national and trans-boundary environment. It focuses on interactions between the public and public authorities.

15. Moreover, the 1992 Rio Declaration on Environment and Development and the 2002 Johannesburg Declaration on Sustainable Development recall the right to access to information and public participation within the context of sustainable development, whilst several EU member states' bilateral development agencies have the principles of participatory development enshrined in their practice.

EIB Requirements

Overarching Requirements

16. Stakeholder engagement will be planned for and carried out by the promoter without discrimination, taking into account differences in risk exposure and the increased sensitivity and reduced resilience of vulnerable groups in line with Standard 7.

17. Stakeholder engagement, including disclosure and dissemination of information, will be planned for and carried out in line with the principles of prior, informed and free engagement and informed participation, in order to lead to broad community support by the affected communities and longer-term sustainability of the project's activities. In the event that broad community support is not attained, the promoter is expected to dedicate all necessary resources and time to additional community engagement and public consultation initiatives, as is required.

18. Stakeholders' inputs will be documented and carefully considered throughout the project preparation and implementation phases.

19. Effective and meaningful engagement and consultation is a two way process to be guided by the following general principles:

- be initiated by the promoter early in the process of identification of environmental and social risks and potential adverse impacts and continue throughout the project life cycle as risks and impacts arise;

³⁰ http://eur-lex.europa.eu/LexUriServ/site/en/com/2001/com2001_0428en01.pdf

- be inclusive of the affected communities, and accessible to any vulnerable groups within, and differentiated by various segments;³¹
- be inclusive, beyond the affected parties, of any groups or individuals who have been identified as other interested parties; and,
- be adequately documented both in substance and process.

20. Factors such as literacy, unequal gender relations and access to dissemination media constitute factors to be carefully considered by the promoter when pursuing an effective disclosure and information dissemination campaign.

Procedural Requirements

Stakeholder Identification and Analysis

21. The promoter will be comprehensive in identifying and prioritising all project stakeholders in the given context, especially those who may be differentially or disproportionately affected by the project because of their vulnerable status. Mapping the different types of stakeholders creates the basis for identifying the people who have human rights entitlements related to a project, as well as for identifying the entities accountable for these entitlements. It is also a valuable exercise for distinguishing between rights and interests in an operation and ensuring respect for the former, given they constitute a primary responsibility for public and private sector promoters alike.

22. Stakeholder analysis needs to clearly identify and differentiate between the different types of stakeholders, including consideration of their rights, roles, duties and responsibilities in the given context, outlining rights-holders and duty-bearers.³² Such analysis will help identify all impacted individuals and communities (right bearers) and the rights which they hold and may be threatened or interfered with in an operation. Government agencies, promoters and other parties (e.g. suppliers and contractors), as duty bearers, have the obligation and responsibility to ensure that these rights are upheld.

23. Particular attention will be placed upon the identification of vulnerable individuals and groups in the given project context and their meaningful engagement in consultation processes.

24. Drawing on independent experts and legitimate representatives can be particularly important in those contexts where rights-holders have limited capacity to represent their own views or may be restrained in doing so by contextual factors (e.g. post-conflict societal tensions, exclusion of certain groups from mainstream political life). In those cases, assessment of the representation of communities and groups is essential, particularly in terms of verifying whether the representatives engaged by the promoter faithfully and legitimately represent views of rights-holders concerned.

³¹ Ensuring that all stakeholders, including under-represented groups on account of gender, poverty and other elements of social vulnerability are given equal opportunity to voice their opinions and concerns and that these are accounted for in the project decision-making.

³² Rights-holders are understood all individuals and some groups (such as indigenous peoples), since they have human rights. organisations or entities, such as States, trade unions or religious institutions, are not human rights-holders, but may act in a representative capacity for individuals who are rights-holders. Duty-bearers are all those actors who have human rights duties and responsibilities vis-à-vis the project affected rights holders. States are the primary human rights duty-bearers, given they have a legal obligation to protect, respect and fulfill human rights. Companies and their contractors, suppliers and other business partners, have a complementary responsibility to respect human rights which is to avoid infringing on the human rights of others and address those impacts with which they are involved.

25. Stakeholder identification and analysis is a critical element in the stakeholder engagement process and the elaboration of relevant activities and measures that will take characteristics and interests of stakeholders into account. Failure to identify all relevant stakeholders can aggravate existing issues and subsequently jeopardise project objectives.

26. Many of the techniques and methodologies common to socio-economic assessments can aid in identifying stakeholders and determining how and to what extent a particular project may affect them.

Engagement Planning

27. Stakeholder engagement should be built into an operation's planning in a way that enables a meaningful information exchange with all identified stakeholder groups at the very outset of the project and at subsequent key decision-making points in its life cycle. Adequate budgetary resources should be foreseen and dedicated to this activity.

28. In the case of projects with significant environmental and social risks and impacts,³³ the promoter, at a minimum, will engage in a preliminary scoping process with identified affected individuals, communities and other relevant stakeholders to ensure the identification of all key issues to be investigated as part of the Environmental and Social Impact Assessment (ESIA) process.

29. The scoping process will facilitate the development of a Stakeholder Engagement Plan (SEP) for the project (see Annex 6 of Volume II). As part of this process, stakeholders should be able to provide input to the draft Stakeholder Engagement Plan and any other scoping document, and receive feedback on how their comments and input have been incorporated and addressed.

30. The promoter will follow up with a second round of consultations when the draft final ESIA/ESMP reports are ready for consultation. Subsequently, the size and nature of the project, the number and nature of identified stakeholders as well as the provisions in the national legislation and relevant best practices will help determine the location, time, level and frequency of follow-up public consultations throughout the lifecycle of the project.

31. The promoter will be expected to build upon the avenues of communication and stakeholder engagement established during the ESIA process. This may include using the appropriate community engagement practices to disclose information and receive feedback on the effectiveness of the implementation of the mitigation measures defined in the ESMP, as well as the affected communities' ongoing interests and concerns about the project.

Information Disclosure

32. The timely disclosure of relevant project information enables stakeholders to understand the project's risks, impacts and opportunities. Mindful of this and as foreseen in the Stakeholder Engagement Plan, the promoter will provide identified stakeholders with relevant information in a timely and appropriate manner. The promoter will further disclose and grant access to relevant information to any other interested party as appropriate.

33. The promoter will provide the following information ("the Information") to all identified stakeholders who are likely to be affected by adverse environmental or social impacts from the project: • the purpose nature, objectives and scale of the project; • the duration of proposed project activities; • any risks to

³³ As defined in Annex I and Annex II of the EU EIA Directive.

and potential adverse impacts with regard to the environment, land tenure changes (resettlement, land acquisition or expropriation), occupational and community health, safety and security, and any other potential adverse impact on communities arising from the project; • the proposed mitigation plans and associated budget; • the available grievance mechanisms; • any added value and opportunities for benefit-sharing; • the envisaged consultation process, if any, and opportunities and ways in which the public can participate; and, • time and venue of any envisaged public meetings, and the process by which meetings are notified, summarised, and reported.

34. This information will be disclosed in the local language(s) and in a manner that is timely, accessible and culturally appropriate, taking into account any vulnerable or minority groups and their right to equitable representation and consideration for their rights, views and interests. The promoter will ensure that access to information is enabled to stakeholders early in the environmental and social impact assessment process and will continue as it unfolds.

Public Consultation

35. The consultation process is part of the public commitment of the promoter. Where communities are, or are likely to be, affected by adverse impacts from a project, the promoter will undertake a process of meaningful consultation in a manner that provides the affected parties with opportunities to identify and express their views on project risks, impacts, and mitigation measures, and engage in a collaborative process with the project in responding to, and addressing considerations raised. Initial stakeholder consultations will occur early enough for the rights and interests of impacted individuals and communities to influence decisions made throughout the project life cycle.

36. The promoter will consult all identified stakeholders at strategic decision-making points during the project lifecycle and certainly before any impact is delivered. The frequency and degree of subsequent engagement and consultations will depend on the nature and magnitude of risks and current and potential adverse environmental or social impacts arising from the project. At minimum, the promoter will ensure that a regular, consistent and reliable platform of on-going dialogue and communication with stakeholders is maintained.

37. Within the context of such dialogue, the promoter will consider, take into account and respond to all views expressed as appropriate and report to stakeholders on the rationale of ultimate decisions. Such rationale will need to demonstrate that impacts causing interference with people's human rights are in accordance with the law of the state in question, in pursuit of a legitimate public aim and proportionate to the objectives sought to be achieved by the project. Key in this process is the promoter's responsiveness and the meaningful on-going engagement and consultations with impacted individuals, communities and other relevant stakeholders.

38. The promoter will be required to review the effectiveness of previous public consultation processes, report on the findings and make the necessary amendments in the operation's environmental and social action plan (ESAP) and SEP to improve future consultations (see the section on monitoring and reporting below). The promoter will inform those who have participated in the public consultation process in a timely manner of the final decision on the project, the accompanying environmental and social mitigation measures and any associated benefits for the local communities. The promoter will further inform the latter of the reasons and considerations on which the decision was based, as well as of the judicial and non-judicial grievance or complaint mechanism or process that should be available during the entire duration of the project.

Free Prior Informed Consent (FPIC)

39. In line with Standard 7, the principle of free, prior, informed consent (FPIC) refers to the process whereby an affected community of indigenous peoples arrives at a decision in accordance with their legal provisions, cultural traditions and practices. The UN Declaration on the Rights of Indigenous Peoples³⁴ ratified in 2007 is the standard to be applied in the implementation of sustainable development projects at all levels, including respect for full participation in decision-making and indigenous peoples' free, prior informed consent to policies, programmes and projects affecting them.

40. In properly appreciating and applying FPIC:

- Free should imply no coercion, intimidation or manipulation.
- Prior should imply consent has been sought sufficiently in advance of any authorization or commencement of activities and respect time requirements of indigenous consultation/consensus processes.
- Informed should imply that information is provided that covers (at least) the following aspects: (a) the nature, size, pace, reversibility and scope of any proposed project or activity; (b) the reason/s or purpose of the project and/or activity; (c) the duration of the above; (d) the locality of areas that will be affected; (e) a preliminary assessment of the likely economic, social, cultural and environmental impact, including potential risks and benefit sharing in a context that respects the precautionary principle; (f) personnel likely to be involved in the execution of the proposed project (including indigenous peoples, private sector staff, research institutions, government employees and others); and (g) procedures that the project may entail; and
- Consent should be premised on consultation and participation undertaken in good faith and full and equitable participation, allowing for as much time as needed and an effective system for communicating among interest-holders, participation of peoples' own freely chosen representatives and customary or other institutions, and the participation of indigenous women, as well as children and youth as appropriate^{35, 36}.

41. The principle underlines the EIB's acknowledgement of the important nexus linking sustainable development and self-determination. Moreover, and in line with the EIB's commitment to human rights, it is the respect and protection of indigenous peoples' human and collective rights that should guide the promoter's actions. In affirming those rights, the FPIC process should produce a clear endorsement or rejection of the proposed intervention and a statement of all accompanying mitigating measures and/or benefit-sharing agreements. It may be expressed in conditional or unconditional terms. As such, it is the main instrument ensuring to the promoter and the EIB alike that at the project level, the indigenous peoples' priorities for economic, social and cultural development and environmental protection are promoted, informed by their traditional cultures, knowledge and practices, and the implementation of their inherent right to self-determination.

³⁴ http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

³⁵ Source: Excerpt from the Report of the International Workshop on Methodologies Regarding Free Prior and Informed Consent E/C.19/2005/3, endorsed by the UNPFII at its Fourth Session in 2005.

³⁶ The ILO Convention 169/1989 also refers to the principles of FPIC. Therein, Articles 6, 7, 16, 16 and 22 provide that the government shall consult the peoples concerned, through appropriate procedures, in particular through their representative institutions; establish means by which these peoples can freely participate to at least the same extent as other sectors of population; assist these peoples' own institutions and initiatives and in appropriate cases provide the resources for these purposes.

42. FPIC is expected to be established through good faith negotiation between the promoter and the participating indigenous communities and to be fully documented as a mutually accepted process between the parties, carrying evidence of agreement between them as the outcome of the negotiations and clearly outlining benefit- and risk-sharing provisions. The EIB is not prescriptive on what constitutes consent and does not require that FPIC ascribes to unanimity, rather that satisfactorily documented evidence of the meaningful engagement of the whole body of a participating community is provided.

43. In the application of FPIC, the promoter should pay particular attention to the representativeness and legitimacy underpinning the process. The objective should be to reach a collective decision (involving indigenous peoples' representative bodies and organizations e.g., councils of elders or village councils), as well as members of the affected communities of indigenous peoples; and any other local civil society organizations identified by the affected indigenous peoples' communities). Further consideration should be given to the following success factors:

- the concerned communities' capacity to negotiate;
- verification of freedom from coercion and the cultural appropriateness of the engagement over an adequate period of time; and,
- information provided to the communities in a culturally appropriate format and in a timely manner.

44. When possible, it is good practice for the promoter to provide in advance capacity building support to indigenous peoples' communities and their organisations, so that they may meaningfully engage in the appreciation of the intended project, impacts and implications arising therefrom.

Grievance Mechanism

45. The promoter should be aware of and responsive to stakeholders' concerns related to the project in a timely manner. A grievance mechanism, process, or procedure at the project level constitutes a critical means for the early identification and remedy of undesirable or unforeseen impacts and other concerns arising out of the execution of the project. Its establishment promotes the affected persons' access to remedy and may facilitate resolution of such concerns and grievances linked to the promoter's environmental and social performance.

46. The promoter will ensure that a grievance mechanism is introduced at project level, irrespective of other complementary linkages or access to existing public grievance channels in the country concerned. It should be designed as a mechanism that is:

- legitimate and trusted;
- scaled to the risks and potential adverse impacts of the project;
- publicised and accessible, appropriately tailored to all potentially-affected persons and communities and other interested parties, irrespective of their literacy and administrative capacity;
- free of cost for the stakeholders;
- includes the anonymity option, where feasible, and guarantee confidential handling of requests, if so requested by the complainant;
- fair, transparent and inclusive;
- guided by engagement and dialogue;
- predictable in terms of process;
- timely;
- not impeding access to grievance and resolution on grounds of one's financial ability to seek judicial remedy; and,
- a source of continuous learning for the promoter and the lending operation at large.

47. It is expected that such a mechanism is introduced by the promoter at the very outset of project design. In terms of scope, it should possess a life-span similar to that of the operation, whilst it should be open to serve all interested parties bearing concerns that arise out of the project's scope.

48. Where a complaint is not admissible or relevant, the promoter will refer the aggrieved parties to the relevant authority or other grievance process. The grievance mechanism, process or procedure should not impede access to independent judicial or administrative remedies outside any project specific context; quite the contrary, it should complement and facilitate access to independent bodies (e.g. Ombudsman).

49. Such mechanism, process, or procedure will document and address concerns communicated to the promoter promptly and effectively, using an understandable and transparent process that is culturally appropriate and readily accessible to all stakeholders, at no cost and without retribution. This is critical for it to be able to deliver on its intended purpose, namely the strengthening of non-judicial access to grievance at the project level. For the grievance redress to function well, the mechanism should be adequately planned for, budgeted and staffed.

50. The promoter will introduce an effective feedback system to the mechanism, informing the affected communities about the project grievance process and its outcomes and reporting regularly to the public on its implementation, while protecting the privacy of individuals. The promoter will also inform the affected communities of their right to independent judicial recourse in the event that grievances cannot satisfactorily be resolved using the project-specific mechanisms. Resolution of a grievance should be confirmed by way of evidence of the satisfaction of the stakeholder/aggrieved party. It is required that the promoter diligently documents this process.

Monitoring and Reporting

51. Engagement with stakeholders during the life of a project is a dynamic and challenging process. Promoters are required to monitor the implementation of the stakeholder engagement plan and the performance of the grievance mechanism and report on both. In accordance to and as an integral component of a project's Environmental and Social Management System, monitoring and reporting procedures must be established early on in the operation by the promoter.

52. In terms of monitoring, the promoter will arrange for all necessary provisions to assure stakeholder engagement during the monitoring phase. Thereby, the promoter will endeavour to involve independent third parties (e.g. CSOs, NGOs, national human rights institutions) or to facilitate community-driven monitoring, where practical and acceptable by the communities concerned.

53. In terms of reporting, the promoter will establish regular communication and reporting channels back to the communities and individuals impacted and concerned, whether through non-technical summaries of progress updates, engagement activities, public meetings, targeted issue-based hearings.