

**Republic of Lebanon**

**The Council for Development and Reconstruction**

**West Beka'a Emergency Water Supply Project**

**RESETTLEMENT POLICY FRAMEWORK**

**DRAFT**

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## **A. Introduction**

Prior to the July/August 2006 hostilities, Lebanon's water and wastewater sector was characterized by poor service despite the availability of relatively adequate water resources. Old and deteriorated infrastructure and inefficient operation and management contributed to intermittent water supply (with some areas receiving water only a few hours per week); unaccounted for water in excess of 40 percent; and serious deficiencies in wastewater collection and treatment, causing unsanitary conditions and contaminating surface and ground water resources.

Among the areas that have drawn consistent attention in terms of shortage and poor quality of water is the Beka'a Valley, and in particular the western region which has been long targeted by the Government for major improvements.

With the onset of the August 2006 hostilities, the destruction of some water and sanitation facilities in parts of the Beka'a, South Lebanon and the Southern suburbs of Beirut has further exacerbated the already-unsatisfactory service conditions.

## **B. Project Description**

The key development objective of the government program for the West Beka'a and the proposed World Bank-financed project is to alleviate the precarious conditions of the area's water supply systems, which have been further aggravated by the recent hostilities and long-term neglect. More specifically, the project is expected to improve health conditions of the population of the West Beka'a through the provision of non-contaminated water in increased quantities by completely rehabilitating the area's water network.

The project components include:

- a) Rehabilitation and expansion of water production, storage, transmission and distribution systems in the villages of Er Raouda, Bar Elias, El Marj, Haouche el Harime and El Khiara with a current population estimated at 49,000 inhabitants:
  - Drilling of approximately six (6) wells in the vicinity of the Chamsine spring basin;
  - Rehabilitation of the Chamsine spring catchment;
  - Construction of a regional reservoir of 6,000 m<sup>3</sup> capacity in Anjar (elevation 1045 m) and two distribution reservoirs in El Khiara (300 m<sup>3</sup>) and Haouche El Harime (1000 m<sup>3</sup>);
  - Construction of a new pumping station<sup>1</sup> (to pump to the proposed new regional reservoir);
  - Building some 29 km of transmission mains (diameter ranging from 100 mm to 500 mm) to supply water to the above-mentioned villages; and
  - Rehabilitating and building some 80 km of water distribution networks in the same villages.

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<sup>1</sup> The Chamsine spring water would be diverted, by gravity, from the catchment basin underneath the existing pumping station to a wet well (to be built under the proposed new pumping station). The floor of the wet well would be about 2.3 meters deeper than the floor of the existing catchment basin. The proposed six new wells near Chamsine spring would discharge into this wet well.

- b) Technical assistance to ensure the proper implementation of the project:
- Consulting services for supervision of construction and rehabilitation works;
  - Consulting services to support implementation of the environmental monitoring plan (EMP), including the purchase of water quality monitoring equipment, as well as training and awareness raising workshop;
  - Technical audit of construction activities to be carried out by mid-term review and end of project; and
  - Support to the Project Management Team (PMT).

Given that the exact/precise project construction sites for the above-mentioned physical component have not yet been identified at this stage, the present Resettlement Policy Framework (RPF) has been formulated to set out procedures for screening subprojects and where so required, will guide the preparation of individual site-specific abbreviated Resettlement Action Plans (RAPs) acceptable to the Bank that CDR will submit as and when the project conditions so require. The completion of the final project design will determine the exact location and size of land required for the constructions.

This framework will apply to any aspect of the project that requires expropriation of private land or assets in the public interest, or the involuntary removal of residences or economic activities. The RPF will thus ensure that the project fully complies with the Bank's safeguard policy on involuntary resettlement (OP 4.12).

### **C. Principles and Objectives Governing Resettlement Implementation**

**Rationale for expropriation of land.** Modest acquisition of private land will be required for some of the sites for the physical component (Component I) of the project, which entails the construction of water networks and facilities. The Beka'a Water Authority (BWA) does not own sufficient land appropriately located that would allow the project to be undertaken without expropriation. The completion of the final detailed project design will determine the exact location and size of land required for the constructions.

**Minimization of expropriation of land.** The expropriation of private land is minimized in accordance with Lebanese law and the Bank's policy OP 4.12, which require public utility projects of any nature to make maximum use of public land, and only to resort to expropriation when there is no alternative. Minimal expropriation of private land also serves the interest of the BWA and CDR which are obliged to pay compensation awarded by independent assessment as explained below. Great care has been taken, and continues to be taken to avoid disturbing existing structures, especially residences, areas of cultural, religious or cultural heritage value, parks or other areas of public value.

**Legal process is obligatory.** All expropriations must be carried out according to the provisions of Lebanese Law No. 58 enacted in 1991, modified by the law enacted on 8/12/2006. This Law on expropriation defines the procedures to be followed and protects the rights of all parties involved. (See section G below for more detail on the national legal framework governing land expropriation).

**Compensation and eligibility principles.** Whenever expropriation of private land is unavoidable, Lebanese law clearly indicates that land should be expropriated through full compensation at market value, independently determined, with advance public notice, negotiation

and right of appeal. Rights to compensation extend to owners, tenants, workers, or any person who can demonstrate any interest lost as a result of expropriation (See sections F and G below).

#### **D. Description of Procedure for Preparing and Approving Land Acquisition Plans (Resettlement Action Plans per OP 4.12)**

**Abbreviated Resettlement Action Plan Procedures.** Since the project only requires expropriation of land or assets affecting a small number of people (i.e. less than 200) with relatively minor impacts (e.g., not requiring changes in occupation or relocation of residence), an Abbreviated Resettlement Plan will be prepared by the Expropriating Agency - CDR for each sites. The Abbreviated Resettlement Plan should briefly present the following:

- **Description of the project activity** requiring the acquisition of land or other assets, and the nature and extent of that acquisition, including sketch maps, photographs, cadastral surveys etc.
- **Description of the potential impacts of land acquisition;**
- A **census/socio-economic study** to identify the persons who will be affected by the project in order to establish who will be eligible for assistance, classified by status (property owners, tenants-at-will, tenants and other occupants), as soon as the expropriation site has been determined;
- An unofficial detailed **estimate of compensations expected** and verification that resources for compensations are available;
- The **timetable and budget for implementation** of the abbreviated resettlement plan;
- Institutional responsibility and financial arrangements for implementation;
- The **consultation arrangements** on acceptable alternatives and the grievance procedures open to project-affected persons; mechanisms for informing the public (such as information campaigns) to inform the community on the project and subproject;
- Arrangements for **monitoring and evaluation** of the implementation

CDR will ensure that the Abbreviated RAP conforms to the requirements of the World Bank's Safeguards policy. The document will have to be transmitted to the Bank for its non-objection, to determine whether the plan conforms to Bank requirements for financing.

#### **E. Estimated Population Displacement**

The physical review of the project areas at the present state (a World Bank mission, accompanied by representatives of CDR and BWA undertook a visit to the project area to assess land acquisition-related issues) indicates that the project will not induce any population disturbance nor lead to the involuntary physical or commercial resettlement of local inhabitants as the concerned areas are currently uninhabited.

The completion of the detailed final project design will determine the exact location and size of land required for the constructions; a census will be conducted to identify the people that will be affected by this land acquisition.

## **F. Eligibility Criteria for Defining Categories of Displaced Persons**

The Lebanese law of expropriation explicitly recognizes for the purposes of entitlement to compensation all holders of any rights. The following main categories of rights are entitled for compensation where loss is established.

- (i) Owners
- (ii) Tenants with and without occupancy rights
- (iii) Usufructiers
- (iv) Owners of trees or other permanent improvements
- (v) People who use the land for commercial purposes
- (vi) People who have made or maintained improvements of any nature, including caretakers, guardians, etc.

The Lebanese law only compensates those with legal rights, while the Bank's policy recognizes squatters and illegal occupants as entitled to some sort of compensation. But since there are no informal settlements of any kind or squatters identified in the concerned project area, this RPF will not address the issue of compensation for groups without legal rights.

## **G. Legal Framework showing fit between Borrower laws and regulations and Bank Policy requirements**

Lebanon's legislation provides the legal framework that will apply to the land acquisition required for the implementation of the project.

**General consistency between Lebanese Law and Bank Policy on Expropriation.** Lebanese law is fully consistent with the principles of the Bank's OP/BP 4.12 on involuntary resettlement. Lebanon protects and defends the rights of all its citizens to the enjoyment of private property including landed property and the rights attached to it. The law stipulates that no citizen may be deprived of the enjoyment and use of private property except when the property is being expropriated by Ministerial decree. The exercise of eminent domain, that is the expropriation of private property in the public interest, is governed by Law No. 58, dated 29/05/1991 & modified by the Law enacted on 12/08/2006 & published in the Official Gazette No.60 dated 12/21/2006.. According to this law, the state may only exercise its eminent domain prerogative when the purpose for which expropriation is taking place is legally deemed to be in the public interest.

Lebanese law provides explicitly for the following (i) identification of all owners of and right holders in properties to be expropriated; (ii) independent judicial and professional assessment of all material losses; (iii) full and prior compensation before expropriation is effected; and (iv) the right of appeal against compensation awarded. Therefore all property owners who lose assets through expropriation expect to receive equitable compensation for lost value in property or income. Independent, judicial and professional institutions and an appeals process ensure the enforcement of these rights and of equitable, just and prior compensation for expropriated property. All compensation is by monetary award. However, the process of expropriation cannot be halted unless the validity of the public interest decree itself is challenged. The time limit set for such a challenge is established at a maximum of two months after the publication of the expropriation decree in the Official Gazette. Where there is an appeal, at least half the compensation is paid in advance.

The principal legal and institutional arrangements are as follows:

*Expropriation:* Lebanese law protects the right of private property, including land Law No. 58 enacted in 1991 modified by the law enacted in 8/12/2006, which authorizes the expropriation of private property in the public interest but only after fair compensation has been made. The compensation is determined through an assessment by an independent judicial committee and is always a monetary award, comprising two components: (i) indemnification of damage or loss to improvements (buildings, trees, fences etc) and (ii) compensation for the value of the land. Under Lebanese Law, the expropriation is considered final unless the public interest claim is itself challenged by an individual directly affected (an association, municipality, NGO etc does not have the right to appeal).

*Public Disclosure.* There are detailed procedures for expropriation. A decree is published in the *Journal Officiel* (Government Official Gazette) announcing and authorizing the expropriation with a timeline which should not exceed 8 years from the publication of the announcement. Annexed to the decree are the following: a) a sketch of the entire project area proposed; b) a detailed plan of the properties to be expropriated; c) a list showing the registration numbers of each property, its location, the names of all the owners and right holders in the Land Registry; and d) a detailed list of the immovable contents of the property as well as a detailed plan of buildings constructed prior to the date of the decree's publication. The complete document is made available for public access at the government offices. In addition, these documents are posted at the municipalities where the properties to be expropriated are located.

*Compensation:* Lebanese law enshrines the principle of full and prior compensation for land and other assets expropriated in the public interest and there are effective, judicially independent institutions to implement expropriation and compensation. The valuation of loss in assets and the determination of compensation and awards are determined by an Expropriation Commission set up by a decree in accordance with proposals from the relevant ministers for each Mouhafaza<sup>2</sup>. The Expropriation Commission determines all compensation for any economic prejudice arising from expropriation, decides on requests by owners for total expropriation and full compensation, and determines the value of small portions of land which cannot be used for building and resolves disputes over the division of compensation between shareholders. Its awards are always based on prevailing local market rates. (See section H below for further detail).

## **H. Methods of Evaluating Affected Assets**

**Expropriation Commission for the Beka'a.** The valuation of loss in assets and the determination of compensation and awards for this project are undertaken by the relevant Expropriations Commission. The Expropriation Commission for the Beka'a is an existing, independent judicial and professional body that decides authoritatively on all aspects of expropriation and compensation in accordance with an expropriation decree. The members of the commission consist of (i) a chairperson (a judge or a magistrate of at least the 10<sup>th</sup> degree); (ii) an engineer; and (iii) a property valuator. The higher appeals level of commission consists of a chairperson (a magistrate of at least the 6<sup>th</sup> degree); (ii) an engineer; and (iii) an engineer expert in land law and valuation. Each commission is assigned alternates for each of its members, as well as a clerk and a messenger.

Compensation is determined by judicial process. When the Expropriating Authority, in this case CDR, wishes to implement the project decree, the CDR should allocate the necessary funds for expropriation (Based on the estimated cost of the expropriation made by CDR) and, the dossier

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<sup>2</sup> Province

will be sent to the Expropriation Commission of the Beka'a Mohafaza for the adjudication of compensations.

The expropriation commissions are competent to undertake the following: (a) determine all entitlements or compensations resulting from expropriation; (b) decide on requests by owners for total expropriation and full compensation; (c) determine the value of small portions of land which cannot be used for building; (d) determine disputes regarding the division of compensation between shareholders; and (e) determine matters related to the integrity of a plot and the cumulative effect of successive excision of land from a property. CDR is represented at the commissions by a legally qualified representative. Individual landowners may represent themselves, or by a lawyer. Where individual citizens appear not to be aware of their rights, the presiding judge should not take sides, but may open the way for the owner to realize the possibilities. Judges attempt to ensure that citizens are not deprived of their rights, and tend to lean more toward the citizen than to the Administration in such matters. Expropriation Commissions have wide discretion, and any right that can be shown to be damaged is subject to compensation.

If the owner cannot be found, or if the owner fails to appear, all other parties sign an affidavit which states that the owner was duly notified and invited to appear and failed to do so. This document is filed as evidence of due process. The local Prosecutor (district attorney) is informed and obtains from the local court an order for the owner to appear, which is served by the police. The police report the outcome and if the owner still fails to appear the court acts on the owner's behalf.

**Adequacy.** Before expropriation becomes effective, compensation is paid to all affected persons by CDR on award of the Expropriation Commissions. These commissions determine the amounts to be awarded, and all persons entitled to receive them, and then implement the expropriation by notification to the Lands Department of the Ministry of Finance. Awards may be appealed by either party, but once final have the force of a court order. The awards cover the four aspects dealt with, i.e. residential premises and relocation, business premises and relocation, other impacts on business, and loss of land. The actual monetary amounts cannot be predicted prior to the expropriation process because these are set by judicial prerogative on independent assessment. Awards are not publicly announced in order to avoid invidious comparisons. However, research information on recent experiences in Beirut has shown that awards easily meet the standards of full replacement costs, enabling property and business owners to acquire premises normally superior to those expropriated and adequate to cover transition and transaction costs of relocation.

### **Expropriation Procedures:**

**Expropriation Decree.** Under the provision for expropriation of land in the public interest, CDR prepares a draft expropriation decree for signature by the Minister of Energy and Water, the President of the Council of Ministers and the President of the Republic. (In addition the following documents are annexed to the decrees: A sketch of the proposed project and a detailed plan of all properties that will be expropriated in part or in full; a list showing the registration number of each property, its location, the names of all the owners and right holders in the Land Registry; a detailed list of the content of the land whose expropriation is proposed, before the date of publication of the decree in the government gazette.

**Disclosure.** Following the publication of the decree in the official gazette, any interested party may consult these documents at the government offices, and obtain copies of them. In addition, the administration that is concerned for the publication of the decree has to notify the affected



owners, the relevant municipalities, mayors, ministries, and the Directorate of Urban Planning (In the Beka'a in this case). Public notices, which include a copy of the decree and the list of properties to be expropriated, must be listed in local newspapers, in the municipality and other central public places.

**Valuation of Assets:** The commission invites the expropriated party to present a proposal in which compensation is requested based on demonstrable loss or damage to legal entitlements. By law, the commissions are required to account for all factors that might affect the value of the property or any other assets involved such as land, buildings, businesses and agricultural produce (trees etc.) Land is valued according to current local market rates considering shape, size, location, available amenities etc. Buildings are valued per square meter of construction taking age, condition, quality of materials, purpose etc. into consideration. Here it must be noted that residential properties are valued less than commercial ones. Businesses are valued based on type, accounts, and evaluated through an onsite inspection that provides for loss of clientele, productive time and other expenses. Agricultural produce is valued according to market value. Included in this process are full transition costs for relocation etc.

**Verification of affected persons:** The names of the accepted owners of the properties to be expropriated according to the Land Registry are listed on the decree. The Commission verifies all actual right holders on the basis of documentary evidence that they are invited to produce; these may include tenants, usufructiers, etc (see section F). On this basis the commission determines as required the actual division of compensation awarded between different claimants.

**Appeals:** All parties have 30 days, from date of notification to appeal the decision. Appeals are presented to the Expropriations Appeals Committee. Appeal decisions could take between 6-10 months.

**Payments and Indemnities:** Payments are made by the CDR on a percentage basis, and in the absence of an appeal as soon as the Expropriation Committee pronounces the evaluation.

- a) If land is vacant and administration or owners lodge no appeal, 100% of indemnity is paid and take over is executed within 15 days.
- b) If structures and trees need to be removed, 75% is paid immediately, and the remaining 25% once take over is executed. The time limit for this to occur is 30 days.
- c) If an appeal is lodged, 65% of indemnity is paid immediately, 10% following appeals decision, and 25% once take over is executed.
- d) Land is not expropriated if compensation has not been paid.

## **I. Organizational Responsibility and Implementation Process**

CDR is responsible for preparing the RAP and for transmitting it to the Bank for approval, as well as implementing the resettlement program in accordance with the RAPs in close consultation with the Bank's Safeguards specialist for oversight and monitoring of their implementation.

## **J. Grievance Redress Mechanisms**

Agreement is reached in the great majority of cases without recourse to appeals for redress of grievance.

However, if project affected persons are dissatisfied with the proposed resettlement arrangements or with the actual resettlement implementation, they may take their grievances in writing to CDR in its capacity as the “owner” of the project. If the grievances cannot be resolved through administrative action, project-affected persons may initiate legal proceedings in accordance with Lebanese laws.

The expropriation commissions, of the first instance and appeals, are established by law in each Mouhafaza. The constitution and powers of the commissions of the first instance have been described under Section H. They attempt to contact every owner in person, and every holder of a legal right is entitled to be heard. Individual landowners normally represent themselves at the first instance (often obtaining informal guidance from a lawyer or another expropriated person), but appeals require legal representation.

The decisions of the Expropriation Commission can be appealed to an Appeals Commission by either the concerned Expropriating Agency (CDR or concerned municipality) or the individual right holder (but not a corporate entity such as an NGO, municipality etc). The Appeals Commissions members hear appeals from either party, and may confirm awards or revise them upwards or downwards, and have no time limits to reach their decision. The decision of the Appeals Commission is binding and final. Irrespective of who appeals (CDR or owner), the owner is required to vacate the property, with rights of sale but not of development, and with access to 75 percent of the compensation until the Appeals Commission reaches its final decision.

#### **K. Financial Costs and Arrangements for Funding Compensation**

The Government of Lebanon will finance all the costs of compensation in relation to land acquisition.

#### **L. Mechanisms for Consultations with and Participation of Affected Persons in Planning, Implementation and Monitoring**

As explained above, (sections D & H), owners and right holders are actively involved in the negotiation process.

#### **M. Monitoring of Implementation**

CDR is responsible for coordinating monitoring and evaluation of the resettlement program. CDR will provide to the Bank a plot by plot schedule of expropriations and compensations that will enable detailed monitoring of the process, using the attached monitoring form/table which was developed specifically for this project (Annex 1). Bank supervision missions will also be a key aspect of monitoring and evaluation.

### Annex 1. Land Expropriation Requirements, Status and Compensation Table

Purpose	Total Area Required (m2)	Area to be Expropriated	Owner Name	Current Land Use/Development	Estimated Compensation (\$USD)	Price/Rate \$/m2	Expropriation Status	Remarks

