

SYMBION POWER LAKE KIVU LTD.

KIVU56

Abbreviated Relocation Action Plan and Livelihoods Restoration Plan

Final

October 2018



TITLE AND APPROVAL PAGE

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Report Title: Abbreviated Relocation Action Plan and Livelihoods Restoration Plan

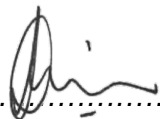
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ACRONYMS AND ABBREVIATIONS

AESIA	Addendum Environmental and Social Impact Assessment
CLLT	Community Liaison and Livelihoods Team
EDCL	Energy Development Corporation Limited
EUCL	Energy Utility Corporation Limited
ESIA	Environmental and Social Impact Assessment
ESO	Environmental and Social Officer
GEF	Gas Extraction Facilities
GoR	Government of Rwanda
IFC-PS	International Finance Corporation's Performance Standards, 2012
IFC	International Finance Corporation
LRP	Livelihoods Restoration Plan
MW	Mega Watt [one million watts]
PPA	Power Purchase Agreement
RAP	Resettlement Action Plan
REG	Rwanda Energy Group Limited
RWF	Rwandan Franc
RNRA	Rwanda Natural Resources Authority
SPLKL	Symbion Power Lake Kivu Limited
USD	USD – United States Dollars

1 INTRODUCTION

1.1 Purpose of the Document

This document is an abbreviated form of a Resettlement Action Plan (RAP) and Livelihoods Restoration Plan (LRP) carried out for the KIVU56 gas to power project.

Purpose of the document is to detail the resettlement process that was undertaken by the Government of Rwanda and to identify gaps between that process and the International Finance Corporation's Performance Standards (IFS-PS). The document provides an action plan to fill the identified gaps through a livelihood's restoration plan.

The document recognises that the resettlement process has occurred and was driven by the Government of Rwanda, without the project proponent being able to influence the process. The document acknowledges the process undertaken was substantially in line with the IFS-PS and seeks to fill any gaps where the process does not match with the performance standards.

1.2 Project Background

The KIVU56 Project is an integrated offshore methane extraction and onshore gas-to-power facility at Lake Kivu in Rwanda. Energy Utility Corporation Limited (EUCL), the Rwandan national electricity utility, will serve as the sole off-taker for the project and will make capacity and energy payments that are guaranteed by the government of Rwanda.

The project is developed by Symbion Power Lake Kivu Limited (SPLKL) as a result of a twenty-five-year concession granted by the Government of Rwanda.

The project is located on the eastern shores of Lake Kivu, Rwanda. The nearest significant town is Rubavu, which is on the border between Rwanda and the Democratic Republic of Congo.

The project comprises four key facilities that will be developed by Symbion Power Lake Kivu Limited:

- Four floating platforms, known as Gas Extraction Facilities (GEFs). These are located approximately five kilometres offshore and tethered to the lake bottom;
- Export pipelines, these connect the GEFs to the on-shore facility. The pipelines transport raw gas, with a 30% methane content, to the wash plant;
- An onshore facility – this facility comprises a wash plant, a power plant, a switching yard and ancillary infrastructure. The wash plant treats the raw gas where the methane concentration is increased to 70%. The gas is then used at the power plant to power reciprocating gas engines to produce electricity. The CO₂ rich wash water is discharged back into the lake at a depth of 80m as per the Lake Kivu Management Prescriptions, as revised. The switching yard transforms and synchronizes the electricity for onward transmission to the Rwandan electricity grid; and
- A marine landing site (onshore) to assemble and launch the GEFs.

The project will be implemented in four phases: phase one will produce 14MW of power from one GEF; and the remaining three phases will each generate 14MW of power, with each phase being defined by the installation and commissioning of an additional GEF.

1.3 Associated Facilities

The KIVU56 power project requires complementary infrastructure in order to bring the power to the national grid and to ensure the continued operations of the facility over the life of the concession.

The provision of such infrastructure is covered in the concession agreement between the Government of Rwanda and Symbion Power Lake Kivu Limited.

The associated infrastructure and its main purpose are as follows:

1. The upgrade of an access road running from Rubavu to the KIVU56 site – this road provides access to the site for construction and operational purposes. This report describes the road in two segments: the Main Access road; and the Site Access road;
2. Transmission Line and Switching Yard – the transmission line and switching supplied the electrical infrastructure to evacuate the power from the KIVU56 project onto the national grid; and
3. Securing vacant occupation of the KIVU56 Site.

1.4 Symbion Power and its Environmental and Social Commitment

Symbion firmly believes in building strong and enduring relations with the local community, in which it plans to operate for 25 years.





The project will benefit both the local and the broader communities beyond the increase in Rwanda's generation capacity. Economic benefits will arise through the use of local companies wherever possible. Training and development will promote skills transfer, and GoR's enabling works will provide better roads and access to power and water for the community near the site

2 RESETTLEMENT HISTORY AND REQUIREMENTS



Symbion Power Lake Kivu Limited was awarded the gas-to-power concession in 2014. The form of this agreement is the Concession and Implementation Agreement (CIA). Upon winning the concession, the Energy Utility Corporation Limited (EUCL)¹ and SPLKL negotiated a Power Purchase Agreement (PPA), this agreement was concluded in December 2015 and imposed obligations on the parties in order to deliver, and purchase, the electricity required by the concession.

Below are images taken from the site, showing the land in question.

Table 1: Site Images

	
<p>Plate 1: Location of On-Shore Facilities</p>	<p>Plate 2: A view of the site entrance from the On-Shore Facility Area</p>
	
<p>Plate 3: Location of On-Shore Facilities</p>	<p>Plate 4: Hillside to the east of the On-Shore Facilities</p>

¹ Energy Utility Corporation Limited (EUCL) and the Energy Development Corporation Limited (EDCL) are both wholly owned subsidiaries of the Rwanda Energy Group Limited (REG). The Rwanda Energy Group is a government owned company responsible for electricity in Rwanda

	
<p>Plate 5: Location of On-Shore Facilities, looking westwards. Export pipeline area to the left</p>	<p>Plate 6: View of Export Pipeline Area, looking southwards</p>

2.1 Resettlement History

2.1.1 Project Site

The Concession and Implementation Agreement detailed the responsibilities of the parties. The Government of Rwanda undertook to provide the on-shore site, vacant of occupation, to SPLK. The Government of Rwanda subsequently delivered on this undertaking, which involved the expropriation of some 34 plots of land. The figure below shows the site land, complete with the land plots that were subject to the expropriation.



Figure 1: SPLKL Site - Showing Expropriated Land Plots

There are two categories of land in the site area: the Lake Kivu buffer zone, which is not privately owned and does not need to be expropriated; and the privately-owned land, which are numbered

and shown in orange in Figure 1. The Lake Kivu buffer zone is shown as yellow stripes in Figure 1. The total area of the SPLKL site is 3.485ha.

The Government of Rwanda undertook the expropriation process in terms of the legislation governing such expropriation at the time, the Law Relating to Expropriation in the Public Interest, Law Number 32 of 2015. The expropriation process itself was delegated to the Energy Development Corporation Limited (EDCL).

The Rubavu District Commission and EDCL identified 34 plots of land that fell within the boundaries of the SPLKL site. All of the plots are situated in the Rubavu District, Nyamyumba Sector, Busoro cell.

The table below (Table 2) provides a listing of the properties that were subject to expropriation.

Table 2: Details of Expropriated Properties

N°	Plot Identification	Area (m²)	N°	Plot Identification	Area (m²)
1	3/03/09/02/190		18	3/03/09/02/173	543
2	3/03/09/02/189	151	19	3/03/09/02/172	164
3	3/03/09/02/188	204	20	3/03/09/02/171	524
4	3/03/09/02/187	923	21	3/03/09/02/21	719
5	3/03/09/02/186	547	22	3/03/09/02/20	3 210
6	3/03/09/02/185		23	3/03/09/02/19	597
7	3/03/09/02/184	427	24	3/03/09/02/18	640
8	3/03/09/02/183	1 770	25	3/03/09/02/17	1 070
9	3/03/09/02/182	333	26	3/03/09/02/16	920
10	3/03/09/02/181	523	27	3/03/09/02/13	1 270
11	3/03/09/02/180	149	28	3/03/09/02/12	276
12	3/03/09/02/179	7 210	29	3/03/09/02/10	2 410
13	3/03/09/02/178	226	30	3/03/09/02/9	2 750
14	3/03/09/02/177	466	31	3/03/09/02/8	2 190
15	3/03/09/02/176	816	32	3/03/09/02/7	1 140
16	3/03/09/02/175	63.6	33	3/03/09/02/6	6 010
17	3/03/09/02/174	149	34	3/03/09/02/7775	864
	Column Total :	13 958		Column Total :	25 297
GRAND TOTAL AREA :					39 254

Of the plots shown above 30 are agricultural plots. Four plots were improved, with the addition of residential dwellings, as well as growing crops. A wide variety of crops are raised on these plots: bananas, maize, soybean, cassava and coffee.

The details of the owners of each property are known and contactable, however they have not been included in this table owing to privacy concerns since this document will be placed in the public domain.

Once the subject properties were identified, the expropriation process proceeded. The process comprised the following steps:

1. Valuation of properties – carried out by a certified land valuer;
2. Payment of compensation; and
3. Transfer of lands from owners to state ownership, in this case EDCL.

The land valuer estimated the value of each plot based upon its size, whether or not there were improvements on the land and the value of the crop raised on the land. The compensation offered to each landowner was the sum of the values of each of these three items.

EDCL and the land valuer were responsible for the process and the consultations with the land owners involved. No records of these consultations have been provided to SPLKL.

The process status quo is as follows:

- Compensation has been accepted and paid for 27 of the plots. The value of the compensation paid was RWF145 520 570 (equivalent to USD174 600 at 2018/09/25) and amounts were paid in July 2017;
- 16 plots have been transferred to EDCL ownership – the balance have administrative challenges such a missing title deeds or cadastral plan, and mismatched identification numbers;
- With regards to the final seven plots where compensation has not yet been finalised:
 - The owner of three of the plots has not yet accepted the compensation offer by EDCL and is currently engaged in negotiations over the quantum. These negotiations affect 23% of the area of the privately-owned land;
 - The owner of a further two plots has not yet accepted the compensation offer by EDCL and is currently engaged in negotiations over the quantum. These negotiations affect 8% of the area of the privately-owned land;
 - The owner of a further two plots has accepted the compensation offer by EDCL and is payment and transfer is currently being arranged. These plots affect 1% of the area of the privately-owned land.

2.1.2 Main Access Road and Site Access Road

Access to the site required improvements in two ways – upgrades to the existing public road, and the creation of a short link road between the public road and the project site. These are the Main Access Road and the Site Access Road respectively. For additional information on these roads please refer to the Environmental and Social Impact Assessment Addendum

Both the Main Access Road and the Site Access Road are shown in Figure 2 below.

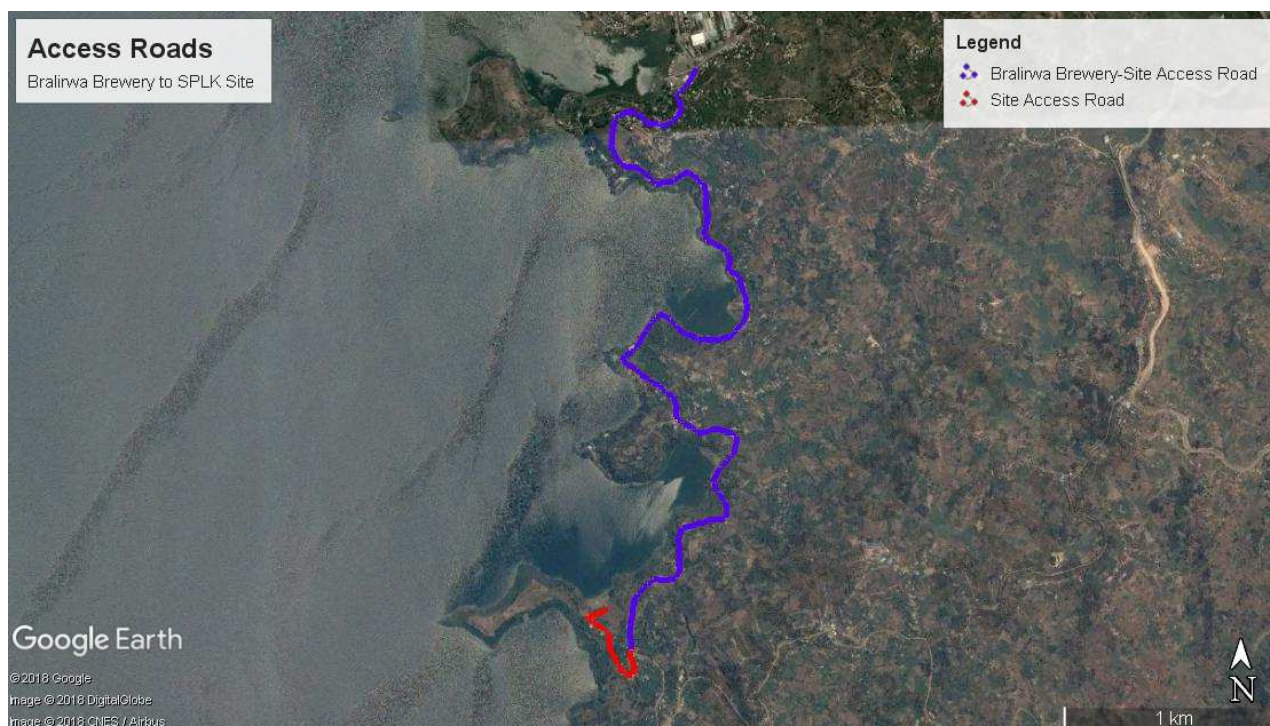


Figure 2: Access Road Routes

The Main Access Road is an existing road that requires widening in places, grade improvements and an asphalt surface. To prepare for these works, the certain properties were expropriated by the Rwanda Transport Development Agency. There were 98 land plots affected by the expropriation. Landowners were identified and compensation was paid for the land and property. The total compensation paid was RWF76 815 870 (equivalent to USD92 180 on 2018/09/25), the date of the payments is unknown.

The proponent was unable to determine if any of the affected landowners had to be resettled through this Main Access road expropriation process.

Land acquisition and compensation for the Site Access road was carried out by the Rwanda Transport Development Agency. Eleven directly affected people were identified and compensation was paid for the land and property. The total compensation paid was RWF30 947 550 (equivalent to USD37 140 on 2018/09/25), the date of the payments is unknown.

Three of the landowners had their plots fully expropriated, scope of the remaining eight expropriations was to reduce the plot size to make way for the Site Access road.

2.1.3 Transmission Line

The transmission line and switching yard are required to evacuate power from KIVU56 to the Rwandan electricity grid.

The expropriation process - land acquisition and compensation, will be carried out by EDCL when the transmission line project reaches the implementation phase. In total, a 13 500m² servitude, lying on agricultural land, will be created. Compensation will be paid for all trees higher than 10m that had to be removed from the servitude. Categories of trees removed included: forest trees, agro-

forestry trees, fruit trees and perennial crops. The total compensation to be paid for both of these categories of compensation was estimated in 2016 to be RWF93 582 000 (equivalent to USD112 300 on 2018/09/25).

Eight directly affected people were identified as having houses in the 30m wide servitude, and those households would require resettlement. Compensation will be paid for the loss of immovable property. The total compensation to be paid was estimated in 2016 to be RWF70 500 000 (equivalent to USD84 600 on 2018/09/25).

Any resettlement associated with the switching yard is covered in the Section 2.1.1: Project Site.

2.2 Expropriation Purpose

The project site is located adjacent to the shore of Lake Kivu. The site is located on a hillside, with one large open flat space being available for the on-shore facilities. Above these facilities rises a steep slope, and it on that slope that the majority of the expropriation has occurred.

Although this area is unusable by the project, the purpose of the expropriation is to create a buffer between the on-shore infrastructure and the nearest dwellings, as well as securing the steep slopes for the project to maintain and protect the on-shore facilities from potential slope slippage.

Figure 3 below highlights the various areas discussed in the text and provides the purpose of the expropriation.



Figure 3: Expropriation Purpose

The remaining expropriation took place along the ridge between the On-Shore Facilities and the southern portion of the site where the export pipelines land. The purpose of this expropriation was

to ensure continuity between the On-Shore facilities to the north of the site and the export pipeline landing area to the south of the site.

2.3 Resettlement and Livelihood Restoration

Resettlement is the physical movement of individuals or households. The expropriation for the SPLKL site involved the settlement of four households.

Livelihoods were affected by the expropriation since each of the 34 plots were used to raise agricultural crops. These crops contributed to the livelihoods of the owners and by expropriating the plots and removing access to the land on which the crops were raised, the owners are impacted.

This Abbreviated Resettlement Action Plan and Livelihoods Restoration Plan aims to address the resettlement and the livelihoods impact of the expropriation process.

3 RESETTLEMENT REQUIREMENTS AND POLICY

3.1 Rwandan Expropriation in the Public Interest

Expropriation in Rwanda is carried out in terms of Rwandan legislation, specifically, the Law Relating to Expropriation in the Public Interest, Law Number 32 of 2015 (Government of Rwanda, 2015). The discussion below draws sections from the expropriation law.

Expropriation in the public interest is defined in the legislation as “to remove a person from his/her property in the public interest after fair compensation”. Fair compensation in this context is defined as being an “indemnity equivalent to the value of land and the activities performed thereon and calculated in consideration of market prices as well as compensation for disturbance due to expropriation”.

Any expropriation is to be carried out only in the public interest and with prior and fair compensation.

Expropriation has to be preceded by a request for expropriation. This request should contain the following information:

1. the nature of the project;
2. a master plan of the land (which includes the list of property owners);
3. a document indicating that the project has no detrimental effect on the environment;
4. a document confirming the availability of funds for fair compensation;
5. an explanatory note detailing that such land or place suits the project;
6. minutes indicating that the concerned population was sensitized about the project and its importance; and
7. a study indicating consequences on living conditions of persons to be expropriated.

The relevant committee in charge of monitoring expropriation in the public interest will consider the relevance of the project and shall conduct a consultative meeting with the population living where the land is located. Where the committee finds that the project is relevant, it is to submit its decision to the relevant the District Council after the consultative meeting with the concerned population. This council is required to approve the decision within 15 days. This decision is to be communicated on radio, with a wide audience in Rwanda, and in at least one of Rwanda-based newspapers with a wide readership. If necessary, any other means of communication is to be used. A list of the land owners registered on land titles and property incorporated on land shall be posted in a publicly accessible place at the office of the District, the Sector and the Cell of the place in which the land is located. Once this notification has been published, landowners are not to develop upon the land, since this development will not be considered as part of the compensation during expropriation.

Any person affected by the decision on expropriation in the public interest has the right to request for review of the decision by an authority higher than the authority that made the decision. A decision made on appeal should be made within 30 days and communicated to the person concerned.

Following the consultation, decision, notification and possible appeal by the affected public and landowners, a land value is to be established. Land values and prices for property on the land should be consistent with the prevailing market rates established by the Institute of Real Property Valuers in Rwanda. The land and property are to be valued using these rates and the valuation must be conducted by valuers certified by the Institute of Real Property Valuers in Rwanda. Prior to the valuation taking place the affected landowners are to be informed by public notice, or another suitable form of communication. The valuation should be conducted in the presence of the landowner who must be able to prove ownership of the land through land title documents.

Compensation is to be calculated in the basis of: land; activities carried out on the land; compensation for the disruption caused by expropriation. This last value is set at 5% of the value of the land and activities carried out on the land.

Once the valuation report has been completed, it is to be approved by the District and the publish the report at the office of the Cell of the place in which the land is located. The fact that this report has been published should be communicated to affected parties by appropriate means.

The landowner is required to accept the compensation report if it is deemed fair compensation for the loss of the expropriated property. If the compensation is not deemed fair by the landowners, the landowner is to engage the services of a land valuer and produce a counter-assessment report. The counter-assessment report can either be accepted by the expropriator, or the two parties can disagree. In the event of disagreement, the matter should be referred to the courts.

Compensation for the expropriation should be paid to the landowner before the landowner vacates the property. If compensation is not paid within 120 days of the date of the compensation agreement, then the expropriation process expires. Once the landowner has received compensation, the landowner has 120 days to vacate the property.

Compensation can be paid in Rwandan currency, into a local bank account. The bank account shall have all of the co-owners of a property as signatories. Should a property be abandoned, the payment should be made into a blocked account which would be released if the landowner comes forward.

In case of in kind payment of compensation, the type of compensation agreed upon shall be paid in accordance with the agreement made between the expropriator and the landowner. Minutes shall be taken of mutually agreed form of compensation.

3.2 Land Titling in Rwanda

Land titling in Rwanda is a formal, legal, process based on fundamental change since 2004, when 2004 National Land Policy was adopted.

The Lands and Mapping Department of the Rwanda Natural Resources Authority (RNRA) undertook to map and record the boundaries of all 10.4 million land parcels in the country in 2005. The mapping process used aerial mapping techniques where land portions were identified from the air, then staff from the RNRA visited every household to determine ownership of each portion. In

cases where there were disputes over the ownership of the parcel, locally recruited committees were used to resolve these disputes. The data was then captured into the central registry, along with ownership data. Each land portion has a land title and ownership, and these titles are used to process land transactions such as sale, sub-division and inheritance (Schrieber, 2017). As of 2017, the land titles to 7.16 million of the land portions are in the hands of their owners. This figure was achieved from a base of 900 000 land titles being in the hand of their owners in 2012.

Notaries are appointed in terms of the Law governing the Office of Notary, Law 13 of 2014. The law defines a notary as being a “civil servant or any other private person authorised by the Minister, with the legal power to draw up acts, receive them or witness the signing thereof in order to make them legally authentic and certify the conformity of copies to their originals by virtue of powers conferred upon him/her by this Law”. With the passing of the law, land notaries were established, which improved the flow of registered transactions at the Land Administration Information System.

The Rwandan government authority responsible for land management is the Rwanda Land Use and Management Authority.

3.3 United Nations Guiding Principles

The Office of the United Nations High Commissioner for Human Rights has published “Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework, in 2011.

This document lays out the guiding principles for states and business organisations with to recognise their obligations to respecting human rights. Business organisations have a corporate responsibility to respect human rights, and in this regard must adhere to the following principles (United Nations, 2011):

- Business enterprises should respect human rights. They must avoid infringing on the human rights of others and should address adverse human rights impacts with which the business organisation is involved;
- The responsibility refers to internationally recognized human rights – the International Bill of Human Rights and the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work;
- Business organisations must avoid causing or contributing to adverse human rights impacts and address such impacts when they occur; and prevent or mitigate adverse human rights impacts that are directly linked to their operations;
- The responsibility applies to all organisations regardless of their size, ownership and structure;
- Business organisations should have policies and processes including a policy commitment to human rights, a due diligence process to account for their impact on human rights and the remediation of this impact;

These principles require that business organisations implement the following operation principles (United Nations, 2011):

- Business organisations are required to adopt a human rights policy commitment at the highest level of the organisation and which is publically available and embedded into the business organisation;
- A human rights due diligence on the business's operations should be carried out. The process should include assessing and acting upon the findings;
- In order to gauge human rights risks, business enterprises should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationships;
- In order to prevent and mitigate adverse human rights impacts, business enterprises should integrate and action the findings from their human rights impact assessments;
- Businesses should verify whether adverse human rights impacts are being addressed by tracking the effectiveness of their response;
- Businesses should be prepared to communicate this tracking externally, particularly when concerns are raised by or on behalf of affected stakeholders;
- Where businesses identify that they have caused adverse human rights impacts, they should provide remediation through legitimate processes; and
- Where it is necessary to prioritize actions to human rights impacts, the highest priority should be to address those most severe.

SPLKL, being a business organisation, operating in Rwanda, subscribes to these Guiding Principles and aims to fulfil the operational aspects of the principals through the body of the environmental and social documentation developed for the project.

3.4 IFC Performance Standard Requirements

The relevant requirements of the International Finance Corporation are detailed in the 2012 version of Performance Standard 5: Land Acquisition and Involuntary Resettlement.

This Performance Standard applies equally to physically displaced people as well as people who have been economically displaced as a result of a project. In the case of physical displacement, the displacement should be managed through a Resettlement Action Plan, in the case of people whose livelihoods are displaced by project influences, should be managed through a Livelihoods Restoration Plan.

A Resettlement Action Plan is designed to mitigate the negative impacts of displacement; identify development opportunities; develop a resettlement budget and schedule; and establish the entitlements of all categories of affected persons (including the host communities). Particular attention should be paid to the needs of the poor and the vulnerable.

Economic displacement is defined as loss of assets or means of livelihood, regardless of whether or not the affected people are physically displaced. A Livelihood Restoration Plan is designed to compensate economically displaced persons or communities and offer other assistance that meet the objectives of the Performance Standard. The mitigation of economic displacement will be

considered complete when affected persons or communities have received compensation and other assistance according to the requirements of the Livelihood Restoration Plan.

The Performance Standard has the following requirements:

1. Applicants must consider feasible alternative project designs to avoid or minimize physical and/or economic displacement, paying particular attention to impacts on the poor and vulnerable;
2. When displacement cannot be avoided:
 - a. the applicant will offer displaced communities and persons compensation for loss of assets at full replacement cost;
 - b. and other assistance to help them improve or restore their standards of living or livelihoods;
 - c. where livelihoods of displaced persons are land-based, the client will, where feasible, offer the displaced land-based compensation;
 - d. The applicant will take possession of acquired property only after compensation has been paid and, where applicable, resettlement sites and moving allowances have been provided;
 - e. The applicant will also provide opportunities to displaced communities and persons to derive appropriate development benefits from the project.
3. The applicant will engage with Affected Communities. Decision-making processes related to resettlement and livelihood restoration should include options and alternatives, where applicable;
4. The client will establish a grievance mechanism;
5. Where involuntary resettlement is unavoidable, a census will be carried out to collect appropriate socio-economic baseline data to identify the persons who will be displaced by the project and determine who will be eligible for compensation and assistance;
6. In cases where affected persons reject fair compensation offers, as a result, expropriation or other legal procedures are initiated, the client will explore opportunities to collaborate with the responsible government agency, and, if permitted by the agency, play an active role in resettlement planning, implementation, and monitoring;
7. The client will establish procedures to monitor and evaluate the implementation of a Resettlement Action Plan and Livelihood Restoration Plan;
8. Implementation of a Resettlement Action Plan or Livelihood Restoration Plan will be considered completed when the adverse impacts of resettlement have been addressed. An external completion audit may be commissioned to document the status of the resettlement;
9. The displaced persons' preferences with respect to relocating in pre-existing communities and groups will be taken into consideration. Existing social and cultural institutions of the displaced persons and any host communities will be respected;
10. For persons whose livelihoods are natural resource-based and where project-related restrictions on access apply, implementation of measures must be made to either allow continued access to affected resources, or provide access to alternative resources with equivalent livelihood-earning potential and accessibility; and

11. Transitional support should be provided as necessary to all economically displaced persons, based on a reasonable estimate of the time required to restore their income-earning capacity, production levels, and standards of living.

The Performance Standard is clear on the responsibilities of project proponents where land acquisition and resettlement are the responsibility of the government. The standard requires that the proponent collaborates with the responsible government agency, to the extent permitted by the agency, to achieve outcomes that are consistent with this Performance Standard.

If the outcomes do not meet the relevant requirements of the Performance Standard, the proponent will prepare a Supplemental Resettlement Plan that will address the relevant requirements of this Performance Standard.

3.5 Comparative Analysis

The process of expropriation took place under Rwandan law and was conducted by a Government of Rwanda entity. The financing of the project will be assessed against the requirements of the IFC Performance Standards. It is therefore necessary to conduct a comparative analysis of the two sets of requirements to determine if there are any gaps in the financing process that should be addressed by SPLKL.

The analysis is carried out on tabular format in Table 3 below.

Table 3: Comparative Analysis: Rwandan Expropriation Law and IFC PS5

No.	Relevant IFC-PS5 Requirement	Law Relating to Expropriation in the Public Interest	Gap Assessment	Action Required
1.	Applicants must consider feasible alternative project designs to avoid or minimize physical and/or economic displacement, paying particular attention to impacts on the poor and vulnerable;	The need for the expropriation in the public interest is to be determined and approved by the District in which it takes place. Consideration is to be given to the consequences on living conditions of persons to be expropriated	The expropriation process was aimed at minimising the impacts and compensating landowners.	Identify landowner vulnerable groups and vulnerable groups within those who will be economically displaced
2.	When displacement cannot be avoided:			
a.	the applicant will offer displaced communities and persons	Compensation is to be calculated in the basis of market prices	Expropriation compensation was accepted for 33/34	None

No.	Relevant IFC-PS5 Requirement	Law Relating to Expropriation in the Public Interest	Gap Assessment	Action Required
	compensation for loss of assets at full replacement cost;		plots. One taken to the courts. Thus, compensation was considered and contested where necessary	
b.	and other assistance to help them improve or restore their standards of living or livelihoods;	Compensation is to include a 5% allowance for the disruption caused by expropriation	Expropriation compensation was accepted for 33/34 plots. One taken to the courts. Thus, compensation was considered and contested where necessary	None
c.	where livelihoods of displaced persons are land-based, the client will, where feasible, offer the displaced land-based compensation;	Compensation is to be paid into the bank accounts of the landowners, where payment is made in kind, it is by mutual agreement.	There is no land available for resettlement, it has to be purchased on the open market.	None
d.	The applicant will take possession of acquired property only after compensation has been paid and, where applicable, resettlement sites and moving allowances have been provided;	Once the landowner has received compensation, the landowner has 120 days to vacate the property	Landowners were required to move only after payment. Typically, landowners vacated their properties after three months of payment	None
e.	The applicant will also provide opportunities to displaced communities and persons to derive appropriate development benefits from the project.	Not applicable in the context of the law	This requirement is not covered by Rwandan law	Study the opportunities for such project related development benefits
3.	The applicant will engage with Affected Communities. Decision-making processes related	Expropriation has to be preceded by a request for expropriation – the applicant must include	A difference in degree of affected party involvement. There was	None

No.	Relevant IFC-PS5 Requirement	Law Relating to Expropriation in the Public Interest	Gap Assessment	Action Required
	to resettlement and livelihood restoration should include options and alternatives, where applicable;	proof that the concerned population was sensitized about the project and a study indicating consequences on living conditions of persons to be expropriated. The District Council, as the approver, must conduct a consultative meeting with the population living where the land is located	engagement with landowners at the initiation phase, the valuation phase and the finalisation phase.	
4.	The client will establish a grievance mechanism;	The grievance mechanism is for the land owner to submit a counter valuation and for the expropriator to accept this valuation. Otherwise the dispute should be resolved in court.	The grievance mechanism can be extended at a project level to address all types of grievances	Develop comprehensive grievance mechanism
5.	Where involuntary resettlement is unavoidable, a census will be carried out to collect appropriate socio-economic baseline data to identify the persons who will be displaced by the project and determine who will be eligible for compensation and assistance;	Consideration is to be given to the consequences on living conditions of persons to be expropriated	Socio-economic data was collected and analysed as part of the expropriation request. This EDCL Socio-Economic report (required by the legislation) is not to hand.	None
6.	In cases where affected persons reject fair compensation offers, as a result, expropriation or other legal procedures are initiated, the client will	This requirement goes beyond the scope of the law	The expropriation process was handled by EDCL and SPLKL was not requested nor required to be involved. The	None

No.	Relevant IFC-PS5 Requirement	Law Relating to Expropriation in the Public Interest	Gap Assessment	Action Required
	explore opportunities to collaborate with the responsible government agency, and, if permitted by the agency, play an active role in resettlement planning, implementation, and monitoring;		legislated expropriation process was followed.	
7.	The client will establish procedures to monitor and evaluate the implementation of a Resettlement Action Plan and Livelihood Restoration Plan;	The law does not require such follow-up assessment. The law applies only to resettlement, not to livelihood restoration	The expropriation process has been completed by EDCL. Thus, there is no opportunity to monitor the implementation process.	None
8.	Implementation of a Resettlement Action Plan or Livelihood Restoration Plan will be considered completed when the adverse impacts of resettlement have been addressed. An external completion audit may be commissioned to document the status of the resettlement;	The law does not require such follow-up assessment. The law applies only to resettlement, not to livelihood restoration	The expropriation process was the responsibility of EDCL. Thus, SPLKL have no power to influence, nor impose conditions on EDCL if the resettlement is unsuccessful.	None
9.	The displaced persons' preferences with respect to relocating in pre-existing communities and groups will be taken into consideration. Existing social and cultural institutions of the displaced persons and any host communities will be respected;	When payment of compensation is made, the landowner is free to choose where any future land will be located.	Landowners have apparently settled within one kilometre of the site.	None

No.	Relevant IFC-PS5 Requirement	Law Relating to Expropriation in the Public Interest	Gap Assessment	Action Required
10.	For persons whose livelihoods are natural resource-based and where project-related restrictions on access apply, implementation of measures must be made to either allow continued access to affected resources, or provide access to alternative resources with equivalent livelihood-earning potential and accessibility.	The law applies only to resettlement, not to livelihood restoration	The consideration of loss of livelihoods is a project based requirement, the expropriation process compensates for loss such that people should be able to establish their livelihoods.	Landowner livelihoods loss was compensation through the expropriation process. Study the any potential livelihood loss in other areas and mitigate accordingly
11.	Transitional support should be provided as necessary to all economically displaced persons;	The law applies only to resettlement, not to livelihood restoration	The consideration of loss of livelihoods is a project based requirement	Study the any potential livelihood loss and mitigate accordingly

The table demonstrates that further actions should be undertaken at a project level to supplement the expropriation process carried out by the Government of Rwanda. The action items are identified and taken forward in subsequent sections of this report.

4 RESETTLEMENT GAP ANALYSIS

Based upon the information contained in the Environmental and Social Impact Assessment (ESIA) and the Addendum to the ESIA (AESIA), as well as the discussion above, the gaps in the process undertaken can be identified.

There are two categories of resettlement for this project. Those physically resettled from the project site and those whose livelihoods may be impacted upon by the project. These categories are known as: the landowners and the fisheries.

4.1 Physical resettlement

The process of expropriation and resettlement was conducted by the Government of Rwanda. In this process, several government bodies were involved. The Rubavu District Commission was the approving authority for the expropriation process. The EDCL was the expropriator and is the land owner at the end of the process.

At the initial, consultation stage, the District Commission was responsible for identification of the land to be expropriated and the relevant landowners. These were the land-based project affected persons. Once the identification process was completed, the Rwanda Development Board was involved in the process of sensitisation (pers. comm. Ndamage Joseph, 12 June 2018).

The EDCL conducted the initial consultation meeting with regards the resettlement process. At this meeting, to which all affected households were invited, information was shared to inform the project affected parties of the need for the project and the reasons behind the expropriation. The meeting was held in the Rubavu District at the Centre Culturelle. The Ministry of Infrastructure holds a copy of the attendance sheet and minutes of the consultation meeting (EDCL, pers. comm. 12 June 2018).

The content of the initial meeting was:

- ❖ details of the project
 - compensation discussion;
 - process and procedures;
 - the fact that outright purchase was required, not leasing of the site land;
 - the meeting was introduced to the valuation expert;
 - The relevant law was explained; and
 - all participants signed attendance sheet.

The date of this meeting marked the cut-off date for eligibility for compensation.

Demographic and other details were collected from land owners. The socio-economic report carried out by EDCL was not to hand at the time of writing.

The land had been demarcated as part of the land mapping process carried out since 2005. EDCL assisted people without physical procession of the land titles to secure their certificates.

EDCL arranged to have each parcel of land valued and the valuations were discussed with the landowners. Most landowners were satisfied with the quantum of the compensation. In the two cases where the compensation quantum was not accepted, the landowner produced their own valuation reports, which the EDCL discussed with the land owner. Of the 34 plots that were expropriated, the landowners for 33 have accepted the valuation. This matter has been taken to the relevant court for resolution (EDCL, pers. comm. 12 June 2018).

The compensation valuation included values for fruit trees; cropping plants; outbuildings and considered the quality and age of trees. The evaluation process was robust and included assessment of building materials from roof structure to foundations – a review of pipes, windows, electrics, switches and the materials used in construction (EDCL, pers. comm. 12 June 2018).

In total, three meetings were held between landowners and EDCL to discuss compensation. Where all landowners were not present at the meeting near the site, a follow-up meeting would be held in Kigali. The discussions for the two landowners who did not accept the initial valuation report were held in Kigali.

With regards to the compensation for expropriation, the amount included was to be paid within four months in terms of the legislation. An amount of 5% was added to the land and property values to compensation for disruption and an additional 5% was added if there was a delay in payment (EDCL, pers. comm. 12 June 2018). Land title, as issued, were split between the husband and wife of the household and each payment went into co-signed bank accounts

Compensation was offered in the form of cash, land or a combination of both. The compensation was paid in cash, rather than by way of alternative land or other in-kind contributions since all of the landowners requested cash payments and there was no suitable agricultural land available as compensation. The acquiring of replacement agricultural land would have to be through the open market (EDCL, pers. comm. 12 June 2018).

The grievances raised by landowners during the process were resolved during the process, with on outstanding matter being taken to the courts. The grievances were (EDCL, pers. comm. 12 June 2018):

- Some landowners had not collected their land titles that were produced as part of the land mapping process – EDCL assisted affected land owners to obtain these certificates;
- Two landowners had disagreements over the land title details captured in the land title registry – this was resolved with EDCL assistance and required the payment of transaction fees to the land registry to change the land title details
- There was a complaint regarding collective land title; and
- Two landowners disputed the quantum of the compensation – after alternative land valuation reports were produced, negotiations resulted in one landowner accepted compensation and the other taking the matters to the courts. Resolution of this matter is pending.

Four of the landowners had erected houses on their land, which were expropriated as part of the process. EDCL has stated that after the compensation was paid to those landowners, it took an

average of three months for them to purchase or build replacement houses in the area. In all cases, landowners dismantled part of their old house and removed these parts when they vacated the property. The Rubavu District Land Committee gave building materials to those who did not buy houses (EDCL, pers. comm. 12 June 2018).

A report detailing the land valuation process will be produced by the valuation expert and the Land Commission and EDCL will receive copies. This report will contain all land titles and evidence of the process undertaken.

With the process having been completed, the following gaps between the process and IFS-PS5 requirements can be identified:

1. Vulnerable groups within the 34 landowners were not identified and assisted;
2. Measures to be taken to restore livelihoods were not identified;
3. Opportunities for displaced person to derive development benefits from the project were not investigated;
4. A grievance mechanism has not been established through which resettled or economically displaced people can bring grievances to the project's attention and seek redress.

These gaps have been addressed in the resettlement and livelihoods restoration plan contained in Section 6.

4.2 Economic Resettlement

There are two categories of economic resettlement for the project. These are:

1. Directly affected parties whose land is to be expropriated to allow the project site to be created and handed to SPLKL for its use;
2. Indirectly affected parties whose livelihoods are impacted upon by the project operations. This category includes fisheries and tourism;

4.2.1 Directly Affected Parties - Landowners

The plots of land that were expropriated at the project site were used for agricultural production. Bananas, cassava, soybean, maize and coffee were produced across the 34 plots.

An analysis of the compensation information provided by EDCL, showed that 20% of the value of the compensation was paid for the crops and fruiting trees. This analysis was based on the 27 plots that had been paid.

Information to hand at the time of the report does not indicate the degree to which landowner livelihoods were dependent upon this agricultural production. Anecdotal evidence indicates that, save for the four plots that had houses on them, all of the other plots were used by small-scale farmers who have other agricultural plots in the district. The landowners consume parts of the crop within the household and sell the remainder at market. All of the landowners have managed to purchase alternative land to replace the lost agricultural plots. This information has been

derived from conversations held with EDCL officials and from a consultation meeting held with three landowners in June 2018.

This being the case it is likely that the transitional support during the period of re-establishing the lost production would not be necessary, and that the compensation paid to these landowners would be sufficient to adequately compensate for production losses.

The impact of having to replace the agricultural crop, is a reduction in the revenue from market for the crops, for a transitional period.

With the expropriation process having been completed, the following gaps between the process and IFS-PS5 requirements can be identified. Since the stakeholders are the same as those affected by the physical resettlement, only additionally identified gaps are listed below:

1. Transitional support was not provided to landowners seeking to re-establish their crops.

4.2.2 Indirectly Affected Parties – Fisheries

The addendum to the Environmental and Social Impact Assessment identified fisheries as being a project affected party.

The possible impact on fisheries livelihoods is centred upon future projects gradually pushing subsistence fishermen out of their traditional fishing grounds through the creation of exclusion zones, thereby depriving them of their livelihoods. This possible impact is cumulative in nature the gradual reduction in fishing grounds would occur incrementally with each successive project.

The impact will fall upon three of the five types of fishery on the Rwandan side of Lake Kivu. The affected fisheries are described as follows (Hanek et al, 1991):

- ❖ Trimaran – a non-motorised vessel made by lashing three canoes together. The vessels operate at night using lamps to increase fish density. Lifting devices on the vessels lift nets that reach to 74m depth. This is the most productive of the fishing methods on the lake and yield approximately 3 300 tons/annum. This fishery yields a market product known as Isambaza, which is a sought-after product in the markets of Kigali. There were 239 trimarans operational on the lake in 1991, operating with a profit margin of 34%;
- ❖ Gill net – this method uses a gill net deployed from a single canoe, up to a depth of 12m. Fishing is done by day and night. The yield from this method of fishing is approximately 560 tons/annum. Gill net fishing aims for *Tillapia*. There were 213 gill net fisheries operational on the lake in 1991, operating with a profit margin of 64%;
- ❖ Bottom Longline – this fishery is carried out by pole or handline fishing is carried out from canoes. The lines are longer than 100m and the fishing takes place at night, yield was calculated to be 30 tons/annum. There were 30 beach seine fisheries operational on the lake in 1991, operating with a profit margin of 2 500%.

In 1991, such fishing was calculated to be 70% based from Rwanda and 30% based in the Democratic Republic of Congo. There is no evidence to suggest that this proportion has changed.

The 1991 estimate of trimarans employment was a total of 3 027 people on both sides of the border. This implies 2 119 people on the Rwandan side of the lake. Hanek calculated that the average trimaran owner had 7.15 dependents, whilst it is estimated from the paper that the average trimaran crew member has 2.5 dependents (Hanek et al, 1991). Given that there is one owner and 10 crew per trimaran, each trimaran has approximately 32 people depending upon its catch for their livelihoods.

The employment estimate made at the consultation sessions was made for Rwandan trimarans only. It was stated that 23 units were active in each of five districts. Each trimaran has a crew of 11, so the total direct employment was estimated at 1 265. Applying the same ratio of dependents for each trimaran calculated above, it can be estimated that approximately 3 680 people depend upon the trimaran catch for their livelihoods. The number of dependents that rely on the fishery in the Rubavu District is approximately 736.

Lake Kivu on the Rwandan side of the border is divided into five districts. The district in which the off-shore facility is located straddles two districts: Rubavu and Rutisro. Each district is divided into sectors, as shown on Figure 4 below.

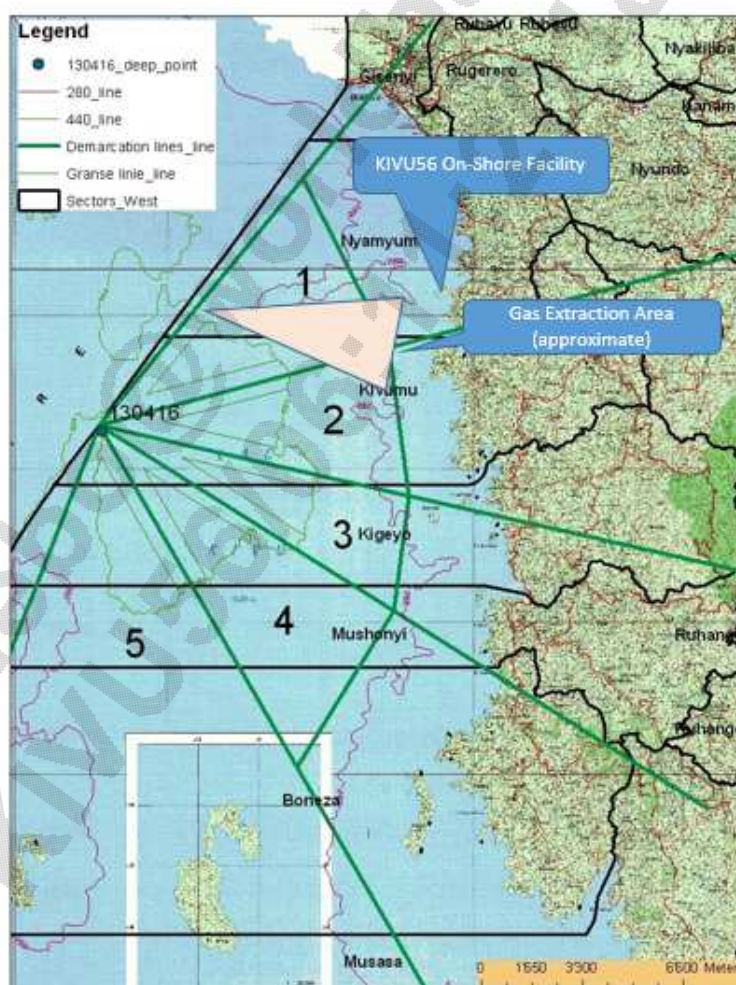


Figure 4: KIVU56 In Relation to Lake Kivu Sectors

The project straddles the Rubavu District, Nyambumba Sector and the Rutsiro District, Kivumu Sector.

It should be noted that this calculation is made only for the trimaran fishery, since the data is available. Similar calculations have not been made for the Gill Net and Long-Line fisheries, save to note that the trimaran is the dominant form of fishing in the lake in terms of yield and employment.

In a consultation session held in June 2018 with project affected people in the fisheries section, the following points were made. The fisheries all belong to one of two cooperatives, one focusses on *Tillapia* products and the other on *Isambaza* products. The peak fishing season is August to September. There is no fishing in the lake during June and July to enable the fish stocks to recover. The catch is landed at landing sites all along the shoreline and fish is either gutted and sold fresh, or dried and sold as *Isambaza*. Fresh fish sales are made to hotels, restaurants and passers-by.

Fisheries is a full-time occupation, although during worker's time off they may take the opportunity to fish on the DRC side of the lake or take casual work such as in construction. Livelihoods dependence on fisheries is therefore close to 100% for individuals in the industry. Household level livelihood dependence could not be determined owing to a lack of information of project affected persons. Information sources for the fisheries information contained in the report was the 1991, Hanek et al study, and a consultation meeting with fisheries representatives held in June 2018.

The impact is strongly dependent upon the scale of the exclusion zone created by the project. The impact assessment has recommended mitigation measures that will reduce the size of the exclusion zone, allow fishing near the export pipelines and to mark the pipelines in such a way that they do not impact upon the fisheries, but are sufficient for navigation.

In light of the impact, the following is the recommended actions to mitigate the impacts:

Table 4: IFS-PS5 Gap Analysis for the Fisheries Impact

No.	Relevant IFC-PS5 Requirement	Gap Assessment	Action Required
1.	Applicants must consider feasible alternative project designs to avoid or minimize physical and/or economic displacement, paying particular attention to impacts on the poor and vulnerable;	Alternative designs are to be considered to reduce the off-shore exclusion zone created by the project	Design intervention and map the exclusion zone
2.	When displacement cannot be avoided:	Insufficient information existing to determine the impact and whether or not the displacement will occur.	Determine the impact based upon the baseline socio-economic assessment and the potential exclusion zone.
a.	the applicant will offer displaced communities	No asset loss will occur as a result of the project	None

No.	Relevant IFC-PS5 Requirement	Gap Assessment	Action Required
	and persons compensation for loss of assets at full replacement cost;		
b.	and other assistance to help them improve or restore their standards of living or livelihoods;	Should the exclusion zone impair fisheries yield, livelihood enhancement measure should be created	Determine the impact through consultation regarding the exclusion zone mapping. Prepare mitigations if impact is high
c.	where livelihoods of displaced persons are land-based, the client will, where feasible, offer the displaced land-based compensation;	The impact is not land based	None
d.	The applicant will take possession of acquired property only after compensation has been paid and, where applicable, resettlement sites and moving allowances have been provided;	No property transfer will take place	None
e.	The applicant will also provide opportunities to displaced communities and persons to derive appropriate development benefits from the project.	Should the exclusion zone impair fisheries yield, such development benefits should be considered for the fisheries	Study the opportunities for such project related development benefits
3.	The applicant will engage with Affected Communities. Decision-making processes related to resettlement and livelihood restoration should include options and alternatives, where applicable;	Consultation should take place with the fisheries, particularly with the Isambaza Co-operative based in the Rubavu District	Consultation with regards measure that will restore fisheries livelihoods should the impact of the project be high
4.	The client will establish a grievance mechanism;	A grievance mechanism has been created for the project. Any	None

No.	Relevant IFC-PS5 Requirement	Gap Assessment	Action Required
		grievances relating to the resettlement process or livelihoods restoration can be raised through this mechanism and addressed accordingly.	
5.	Where involuntary resettlement is unavoidable, a census will be carried out to collect appropriate socio-economic baseline data to identify the persons who will be displaced by the project and determine who will be eligible for compensation and assistance;	Such socio-economic data does not exist. Consultations should be held with the Rubavu based Isambaza Co-operative to determine the baseline socio-economic structure of the fisheries likely to be impacted by the project.	Conduct a socio-economic baseline amongst the trimaran, gill net and long-line fishermen in the Rubavu District. A special focus should be placed on mapping the fisheries current fishing grounds.
6.	In cases where affected persons reject fair compensation offers, as a result, expropriation or other legal procedures are initiated, the client will explore opportunities to collaborate with the responsible government agency, and, if permitted by the agency, play an active role in resettlement planning, implementation, and monitoring;	The Rwandan expropriation law includes an appeal mechanism, which is available to the parties.	If grievances relating to the resettlement process are raised, they will be processed through the project grievance mechanism and passed onto the relevant authorities for resolution
7.	The client will establish procedures to monitor and evaluate the implementation of a Resettlement Action Plan and Livelihood Restoration Plan;	No such procedures currently exist	Develop a Monitoring and Evaluation plan for the implementation of the livelihoods restoration measures, once the restoration measures have been finalised
8.	Implementation of a Resettlement Action Plan or Livelihood Restoration Plan will be considered	The Government of Rwanda has conducted the resettlement process using the expropriation	Conduct a completion audit of the Livelihoods Restoration Plan.

No.	Relevant IFC-PS5 Requirement	Gap Assessment	Action Required
	completed when the adverse impacts of resettlement have been addressed. An external completion audit may be commission to document the status of the resettlement;	law. The law does not require a completion audit. With regards to livelihoods restoration, a completion audit should be carried out.	If any resettlement related grievances are raised through the project grievance mechanism, these will be passed along to the relevant authorities for resolution.
9.	The displaced persons' preferences with respect to relocating in pre-existing communities and groups will be taken into consideration. Existing social and cultural institutions of the displaced persons and any host communities will be respected;	Landowners have apparently settled within one kilometre of the site.	None
10.	For persons whose livelihoods are natural resource-based and where project-related restrictions on access apply, implementation of measures must be made to either allow continued access to affected resources, or provide access to alternative resources with equivalent livelihood-earning potential and accessibility.	The consideration of loss of livelihoods is a project based requirement, the expropriation process compensates for loss such that people should be able to establish their livelihoods.	Landowner's livelihoods loss was compensated through the expropriation process. SPLKL to liaise with EDCL to arrange a study into any potential livelihood loss in other areas and mitigate accordingly
11.	Transitional support should be provided as necessary to all economically displaced persons;	Resettlement has been carried out, and thus the opportunity to provide this support has passed.	With regards to livelihoods impacts, the project should liaise with relevant bodies to take forward appropriate mitigation measures (e.g. youth training programme and the Livelihoods programme with the United Nations Development Programme)

These gaps have been carried forward and addressed Sections 5 and 6.

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5 LIVELIHOOD RESTORATION

5.1 Background

Livelihood is defined as “A livelihood comprises the capabilities, assets and activities required for a means of living. A livelihood is sustainable when it can cope with and recover from stresses and shocks and maintain or enhance its capabilities and assets both now and in the future, while not undermining the natural resource base.” (DFID, 2001)”.

The project aims to restore sustainable livelihoods at, or better, than had existed prior to the project taking place. The components in the sustainable livelihood framework are (DFID, 2001):

- Human capital - the skills, knowledge, ability to labour and good health that people possess to leverage different livelihood strategies;
- Natural capital - the natural resources which provide ecological services essential for sustainable livelihoods in the project area;
- Financial capital – the cash or equivalents, that allows people to adopt livelihood strategies;
- Social capital - the community networks and social relationships from which people draw in pursuit of their livelihood objectives and;
- Physical capital – the tools, equipment, facilities and goods that are needed to support livelihoods.

The project's chief impact on the fisheries is in the creation of exclusion zones located adjacent to the off-shore facilities and the export pipelines. The existing trimaran, gill net and long-line fisheries have an asset – unrestricted fishing grounds, which allow the generation of sustainable livelihoods.

As that asset reduces, so the natural capital available to the fisheries are reduced. As this natural capital reduces, so fish yield decreases and so does income, thereby reducing the livelihood and reducing the ability of the fishery to support the current number of dependents.

As the fishery reduces, so does the social capital that the owner and the crew derive from the fact that they are able to support dependents. As the social capital erodes, it effects the ability to use networks to obtain alternative employment or means of income.

The value of the physical capital: the boats; the nets; and the lanterns reduce, as the value of the yield from this physical capital decreases. This value decrease, reduces the wealth available to the owners of the physical capital.

The project intends to ensure that this impact does not accrue to the project through analysis of baseline conditions and addressing the possible impacts at the design and implementation phases.

5.2 Key Principals and Objectives

In accordance with the requirements and the analysis described in the sections above, the project makes a commitment on the key issues arising from resettlement and livelihoods restoration.

5.2.1 Technical Project Design

The project will consider feasible alternative project designs to mitigate physical and economic displacement, while balancing environmental, social, and financial costs and benefits. In this regards the project, will pay particular attention to impacts on vulnerable persons.

5.2.2 Compensation and Benefits for Displaced Persons

The project will assist with resolving grievances with regards to the resettlement process undertaken, recognising however that this process was undertaken by the Government of Rwanda and remains their responsibility in terms of the concession agreements.

The Project recognises that there may be some temporary (during construction) and permanent (during operations) economic displacement in relation to the project activities. SPLKL will therefore work in partnership with relevant authorities and organisations, to implement targeted and effective interventions, which have been developed in partnership with project affected persons and are in line with the commitments articulated within the SPLK Community Development Plan.

The project will provide opportunities to economically displaced persons to derive appropriate development benefits from the Project.

5.2.3 Community Engagement

The project will engage with affected communities through a process of stakeholder engagement described in the Stakeholder Engagement Plan. Disclosure of information and participation of project affected persons will continue during the planning, implementation, monitoring, and evaluation of livelihood restoration activities to achieve outcomes that are consistent with the objectives of IFC Performance Standard 5.

5.2.4 Grievance Mechanism

The project will establish a grievance mechanism consistent with Performance Standard 1. This mechanism will allow the project to receive and address grievances from affected parties in a timely fashion, including a recourse mechanism designed to resolve disputes in a consistent and impartial manner.

5.2.5 Monitoring & Evaluation

The project will establish monitoring and evaluation procedures to track progress in the implementation of the Livelihood Restoration Plan and to take corrective action as required. The project will retain competent professionals to provide advice on compliance with the Performance Standards and to verify the project's monitoring information. Affected persons will be consulted during the monitoring process.

5.2.6 Consideration of Vulnerable Groups

The livelihood restoration programme will place special emphasis on identifying and managing the livelihood impacts on vulnerable groups. For the purposes of this project a vulnerable person is defined as being any three of the following:

1. Household per capita income is below USD2/day;
2. The household head is over 60 years old;
3. Disabled members of households;
4. A widow as head of household;
5. A household with a dependency ratio² higher than 2; and
6. Household members eats 2 or less meals/day.

5.3 Impact Considerations and Conceptual Mitigation Measures

There are two impacts of the project on the fisheries:

1. Reduction in fishing area; and
2. Night light.

5.3.1 Fishing Grounds

This impact is based upon the creation of safety buffer zones for the GEFs and for the export pipelines leading to the on-shore facilities.

The KIVU56 layout requires four off-shore GEFs, each with a one-kilometre exclusion zone. Each GEF, in a line north to south, would occupy a lake surface area of five kilometres in length and two kilometres in width. Thus, the GEF exclusion zone would create a ten square kilometre exclusion zone.

The zone of influence of the off-shore facility includes the export pipelines which were estimated in the AESIA to influence a further six kilometres squared. Thus, the exclusion zone for each facility is estimated at 18 km².

This exclusion zone, were it to be enforced such that navigation and fishing were prohibited within its perimeter, would force fisheries to travel around the exclusion zone to reach further flung fishing grounds, as well as reduce the surface area of the lake available for fishing. Both of these would reduce the livelihood yield from fishing – longer times spent reaching fishing grounds and less time spent fishing, additional employment to power the boats to further flung fishing grounds, and excluding surface area from the potential fishing grounds.

The impact mitigation measures under consideration are:

1. Reducing the safety buffer around each GEF to a minimum;
2. Reducing the safety buffer alongside the export pipelines to a minimum; and
3. Arranging the GEFs and the export pipelines in as compact an area that is feasible.

All of these design measures are aimed at reducing the off-shore footprint of the project.

A further impact mitigation measure under consideration is:

² The dependency ratio is the ratio of the number of household members aged zero to 14 plus those over the age of 65, to the total number of household members aged 15 to 64

4. Marking the export pipelines.

These design measures are aimed at making the buffer zones navigable.

5.3.2 Night light

This impact is based upon the generation of light at night by the project. Light attracts fish and is commonly used by the fisheries to densify the catch. Optimum conditions for increasing the catch are to shine a light near the nets, against a black night. Fish are then attracted to the nets.

KIVU56 has the potential to be lit up at night, thereby attracting fish, and fisheries to the platforms. The export pipelines, in order to make them navigable at night would also be lit, thereby attracting fish, and fisheries, to the export pipelines. Since the platforms and the export pipelines would be exclusion zones where fisheries would not be permitted, the catch would be reduced and conflict between the project and the fisheries would ensue.

The impact mitigation measures under consideration are:

1. Reducing the night lights on the GEFs to the minimum practical for the safety of the platform;
2. Reducing the light emitted by the navigation lights on the export pipelines;
3. Ensuring that light is not directed into the water or, alternatively, use a lighting system or light colour that does not densify fish.

All of these design measures are aimed at reducing the night light of the off-shore portion of the project.

5.3.3 Tourism

The shores of Lake Kivu are amenable to tourism activities and the project may impact upon tourism activities during the construction phase. These impacts have been discussed in the Environmental and Social Impact Assessment, as well as in the Addendum to the Environmental and Social Impact Assessment.

Many of the impacts will be construction phase impacts that can be mitigated whilst the project proceeds. These fall within the category of nuisance impacts such as high levels of road traffic, dust, and noise. Further impacts include possible job losses if a hotel is block booked for a long period, a state that would require less staffing than the normal operation of a hotel.

SPLKL is currently collecting additional information into the likely impact on tourism by the project, in order to determine if amendments to the LRP are necessary to cater for tourism based impacts.

Mitigation measures for tourism impacts are:

- Controls to reduce the construction nuisance, such as transport notifications, planning large loads for low peak times of the day/week and speed controls;
- Contractor guidelines to avoid block booking hotels, and to spread staff between numerous hotels, rather than filling one hotel completely;

5.3.4 Communication and Monitoring

The impact of the project on the fisheries will be mitigated by through the establishment of a Community Liaison and Livelihoods Team, who task will include the monitoring of fisheries in conjunction with members of the Rubavu District Isambaza fishing co-operative.

The monitoring will comprise quarterly reports on the fish catch, the numbers of fisheries active on the lake, new fisheries arrivals and fisheries leaving the co-operative, challenges and their resolution. The reports will compare the current situation with that found in the baseline study conducted in terms of this report.

The monitoring will include holding quarterly meetings of the Community Liaison and Livelihoods Team (CLLT) to open lines of communication between the fisheries and the project.

The CLLT will be empowered to respond to material changes in the livelihoods of the fisheries, and to establish projects that will sustain existing livelihoods where evidence exists that the project is having a negative impact on the fisheries.

5.4 Livelihood Restoration Action Plan

Based upon the impacts and mitigation measures identified in the sections above, the following action plan is adopted for the restoration of the livelihoods of fisheries.

Table 5: Livelihoods Restoration Action Plan

No.	Activity	Timeline	Budget	Key Performance Indicator
1.	Establish a socio-economic baseline for the fisheries in the Rubavu Isambaza Co-operative	Final Design Phase	Included in existing project scope	Baseline Report
2.	Safety analysis and buffer zone determination for the GEFs and export pipeline	Final Design Phase	Included in existing project scope	Illumination Construction Drawings
3.	Assessment and design of night light on the GEFs	Final Design Phase	Included in existing project scope	Approval of Night Light Arrangements
4.	Assessment and design of navigation lights for GEFs and export pipelines	Final Design Phase	Included in existing project scope	Approval of Navigation Light Arrangements
5.	Establishment of Community Liaison and Livelihoods Team	Pre-construction phase	To be determined	Initiation Report and Inception Meeting Minutes

No.	Activity	Timeline	Budget	Key Performance Indicator
6.	Quarterly Meetings of the CLLT	Construction Phase	To be determined	Meeting Minutes
7.	Ad-hoc Projects to address livelihoods challenges	Construction Phase	To be determined	Project Reports
8.	Completion Audit against the socio-economic fisheries baseline	Post Construction	To be determined	Livelihoods Completion Audit
9.	Close-out report including addressing measures identified in the audit report	Post Construction	To be determined	Livelihoods Close Out Report

6 RESETTLEMENT AND LIVELIHOODS MANAGEMENT AND MONITORING PLAN

A management and monitoring plan has been adopted to ensure that the goals of the RAP and LRP are addressed. This plan includes monitoring and evaluation to check on implementation progress, to ensure that targets are being met, to assess the processes used to manage grievances from the resettlement exercise and to plan and implement the livelihood restoration process.

The objective is to ensure that project affected households are adequately catered for and are left in a position no worse off than they were prior to resettlement or the project impacting upon livelihoods.

6.1 Grievance Management

SPLKL has adopted a Grievance Management Procedure. The grievance management procedure provides a tool for companies and communities to address issues as they arise in a non-confrontational manner. The grievance management procedure should be communicated and explained to project affected parties early on in the project lifecycle, to allow for landowners and other parties, such as members of the fisheries, to come forward without resorting to confrontation.

The grievance management procedure supplies project affected parties with a process that is objective and provides a set process for raising, discussion and resolving concerns relating to the project. The procedure results in fair and lasting outcomes that builds trust between SPLKL and project affected peoples. The grievance mechanism will ensure that concerns are raised and addressed in a timely manner, that the raising and resolution of grievances will ensure that the project does not impact negatively on resettled or economically displaced communities and does result in community vulnerabilities being addressed (IFC, 2009).

The Grievance Mechanism has been developed in terms of the IFC Performance Standards (IFC, 2012) with guidance from the Good Practice Note: Addressing Grievances from Project-Affected Communities, published in 2009 by the International Finance Corporation (IFC, 2009).

The objective of the Grievance Mechanism is to ensure that the Symbion Power Project is aware and responds to stakeholder concerns. The mechanism was designed to empower all employees, stakeholders and contractors to successfully and effectively manage Project-related grievances and complaints (SPLKL, 2018).

The Grievance Manager be placed within the SPLKL's Community Liaison and Livelihoods Team whose members are responsible for collecting, reporting and communicating grievances as they occur. The Grievance Manager will be responsible for assessing the severity of a grievance and escalate the grievance accordingly. The Grievance Manager will work with the Community Liaison team to ensure that the assessment of grievances addresses the urgency or risk of the grievance

In the event that grievances are received from resettled landowners, the EDCL will be engaged as one of the parties involved in grievance resolution.

6.2 Organizational capacity

Two organisations are responsible for the resettlement process and for livelihoods restoration- SPLKL and EDCL. The relationship between the two and their responsibilities are shown in the figure below.

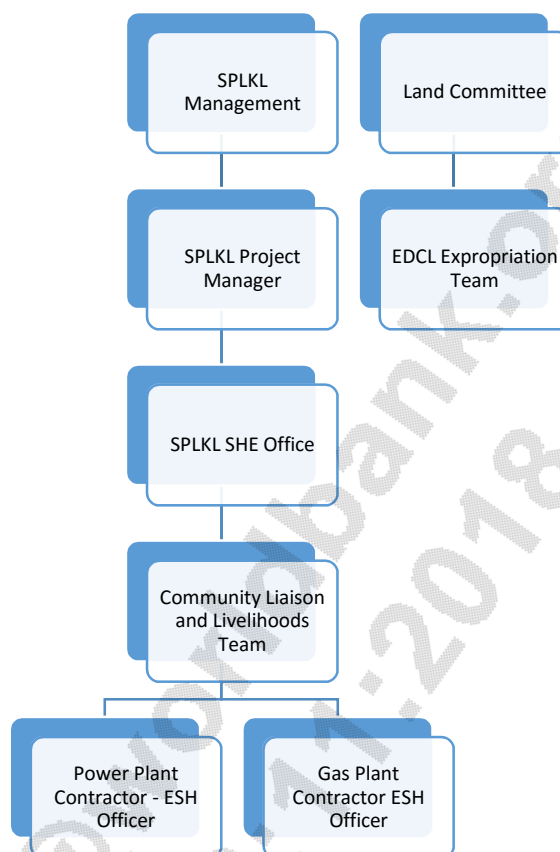


Figure 5: Organisational Responsibilities for Resettlement and Livelihoods Restoration

Figure 5 shows the hierarchy within the two organisations, starting with the executive management team and ending with a presence on site. SPLKL will lead the resettlement and livelihoods role for the project, with input and assistance from the contractor.

SPLKL's Community Liaison and Livelihoods Team has a mandate to identify and receive grievances with regards to resettlement and to implement the Resettlement Action Plan and Livelihoods Restoration Plan. Resolutions of the grievances and addressing the challenges that arise from the implementation process will be taken up through the hierarchy of the two organisations until an outcome that supports the aims of the IFC Performance Standards.

6.2.1 Roles and Responsibilities

Community Liaison and Livelihoods Team is empowered to:

1. Ensure that the Stakeholder Engagement Plan, the Community Development Plan and the Livelihoods Restoration Plan are implemented during the project – construction phase and operational phase;

2. To develop partnerships with stakeholders with similar aims who are operating in the project area (examples include the United Nations Development Programme, the Rwanda Development Board, the Rubavu District Isambaza fishing co-operative)
3. To carry out monitoring of the resettlement and livelihoods aspects of the project, in conjunction with local partners and organisations;
4. To respond, by implementing RAP or LRP projects, to implementation challenges identified through the grievance process and through internal and external monitoring reports;
5. The management of the Grievance Mechanism;
6. To ensure alignment between all SPLKL, EDCL, the Rubavu District Committee, project affected persons and project beneficiaries;
7. Ensure that the process is ethical and in line with the aims of the Performance Standards;
8. To initiate independent external livelihood restoration reviews, when necessary;
9. To ensure adequate information sharing with project affected persons.

The Community Liaison and Livelihoods Team will comprise the following members:

- SPLKL Project Manager or representative;
- EDCL Project Manager or representative;
- A Livelihoods Restoration Delivery Team Leader who acts as the Livelihood Restoration Advisor; and
- One Community Liaison Officer, who also acts as the Grievance Manager, with skills and experience in resettlement and livelihoods restoration.

Every principal contractor on the site will have an Environmental and Social Officer (ESO) attached to the project on a full time basis. The ESO will report to, and take part in, the activities of the Community Liaison and Livelihoods Team. The contractor's ESO will be responsible for:

1. To record and report grievances received by the contractor from the community;
2. Participate in community engagement actions;
3. Participate in, and implement any actions delegated by the Community Liaison and Livelihoods Team;
4. Ensure that SPLKL environmental and social policies, as contained in the environmental and social suite of contract documents, are implemented;
5. Conduct audits on sub-contractors, to ensure that the environmental and social standards imposed on the contractor, are imposed upon any sub-contractors; and
6. Maintain an environmental and social file on the site, documenting contractor compliance with the environmental and social suite of contract documents.

Oversight of the Community Liaison and Livelihoods Team will be conducted by the SPLKL Project Manager. Oversight will be conducted by means of external third party evaluations, whose audit reports will be submitted directly to the SPLKL Project Manager.

In order to address governance of the Community Liaison and Livelihoods Team, the following documents will be generated:

- A foundation memorandum detailing the composition; the mandate; the responsibilities; the operating procedures, the staffing and the budget of the team;
- Minutes of each meeting, which will be publically available, save for commercially sensitive discussions.

Where SPLKL does not have the necessary skills or services on site, SPLKL will form partnerships with potential partners to fill shortfalls in capacity. In this regard, potential partnership includes one with the United Nations Development Programme who run relevant programmes such as livelihoods support, information and communications technology training and gender support).

Community involvement in the project will be ensured through the activities of the Community Liaison and Livelihoods Team. Community involvement will be channelled through two vehicles: the Community Development Plan; and the Stakeholder Engagement Plan. These include publishing project related newsletters, attending community meetings to discuss the project and the facilitation of regular meetings with project affected persons.

The Rubavu District Committee will be involved in the project through regular briefing meetings on the progress of the project.

6.2.2 Timeline for Remaining Compliance Items

The table below provides a timeline for the remaining items of environmental and social compliance.

Table 6: Timeline for Remaining Compliance Items

No.	Activity	Timeline
1.	EDCL Expropriation Completion Report – Site Property	Prior to Construction
2.	Verification that final expropriation payments have been made for the Site Property	Prior to Construction
3.	Establishment of Community Liaison and Livelihoods Team	Prior to Construction

6.3 Monitoring and Evaluation

Monitoring is the systematic collection and analysis of information with regards progress on a project against the stated objectives. It is done to ensure that the resettlement and livelihoods objectives set by this plan are achieved. Monitoring and the availability of monitoring reports promote project transparency and accountability.

Monitoring results will be collated and analysed on a weekly basis, monthly consolidated reports will be submitted to the SPLKL Project Manager by the Community Liaison and Livelihoods Team.

Evaluation is the comparison of measured project impacts against the resettlement and livelihoods objectives.

Monitoring is an activity conducted internally by SPLKL. Evaluation will be conducted by external service providers appointed by SPLKL.

Evaluation will be carried out bi-annually and the reports submitted to the SPLKL Project Manager.

The project aims to conduct monitoring and evaluation activities to demonstrate project affected persons who have had their livelihoods disrupted remain in the same state or better for the duration of the project.

Resettlement for this project was carried out by the Government of Rwanda, through their agencies, the Rwanda Transport Development Agency and EDCL. Monitoring and evaluation of resettlement is thus the primary responsibility of these agencies. SPLKL will assist where requested by the agencies in question.

Community involvement in the monitoring and evaluation process will be obtained by sharing relevant information with project affected persons.

The table below provides key performance indicators that will be monitored by the project.

Table 7: Resettlement and Livelihoods Key Performance Indicators

No.	Target	Indicator	Scope	Measurement Frequency
1a.	Offering economically displaced persons compensation at full replacement cost	Number of economically displaced persons (those whose fishing grounds are affected)	Project Site; and Fisheries	Quarterly
1b.		Financial compensation paid as compensation for loss	Project Site; and Fisheries	Quarterly
1c.		In kind compensation provided as compensation for loss	Project Site; and Fisheries	Quarterly
2a.	Offering assistance to help PAP improve or restore their standards of living or livelihoods;	Baseline livelihoods study for Project Affected Persons	Fisheries; and Vulnerable Persons amongst Project Site ex-landowners	Once Off
2b.		Reference livelihoods study for Project Affected Persons	Fisheries; and Vulnerable Persons amongst Project Site ex-landowners	Annually

No.	Target	Indicator	Scope	Measurement Frequency
2c.		In kind assistance provided as compensation for loss	Fisheries; and Vulnerable Persons amongst Project Site ex-landowners	Quarterly
3a.	Provide opportunities to Project Affected Persons to derive appropriate development benefits from the project through the Community Development Plan (CDP).	Number of Project Affected Persons receiving project related benefits	Fisheries; and Vulnerable Persons amongst Project Site ex-landowners	Quarterly
3b.		Nature of the benefits being derived by Project Affected Persons	All of the beneficiaries	Quarterly
4.	Engage with Project Affected Communities	Minutes and other records of engagements with Project Affected Persons	All communities with whom engagement is conducted	Quarterly
5a.	An operational and effective grievance mechanism	Number of grievances received	Grievance Management System	Quarterly
5b.		Number of grievances resolved	Grievance Management System	Quarterly
5c.		Effectiveness of the grievance resolution	Feedback from those who lodged grievances	Annually
5d.		Number of grievances that were not resolved and which were taken to extra-project for a for resolution	Grievance Management System	Quarterly
6a.	To monitor and evaluate the implementation of the Livelihood Restoration Plan	Monitoring reports	Database of those who have directly impacted through expropriation	Quarterly
6b.		Evaluation reports		Bi-annually

No.	Target	Indicator	Scope	Measurement Frequency
			or who derive direct project benefits	
7.	Documented completion of the Livelihood Restoration Plan	External completion audit	Database of those affected	At the completion of construction Every 10 years thereafter
8a.	Reduce access restrictions for fisheries owing to the project	Baseline study on the fishing grounds used by fisheries	Isambaza fisheries in Rubavu District	Once Off
8b.		Study into the fishing grounds used by fisheries	Follow-up survey to determine if the grounds have shifted due to project influence	Annually
9a.	To provide transitional support, as necessary, to all economically displaced persons;	Financial compensation paid to aid transition	Database of those affected	Quarterly
9b.		In kind compensation provided to aid transition	Database of those affected	Quarterly
9c.		Training provided e.g. ICT, Construction skills or the SPLKL youth scholarship programme	Database of those affected	Quarterly

6.4 Resettlement and Livelihoods Restoration Operational Plan

The operational plan below is developed to present the action that will be required to ensure that this Resettlement Action Plan and Livelihoods Restoration Plan delivers the results for which it was intended.

This plan is focused on the pre-construction and construction phases. It is envisaged that the information management system developed during the construction phase are maintained throughout the operational phase. SPLKL envisage the management of the system during the operational phase to be continued, with staffing levels adjusted to suit operational requirements.

The plan is contained in the table below and includes details on:

- ❖ Action item;

- ❖ Responsibility;
- ❖ Timeframe;
- ❖ Frequency; and
- ❖ Budget estimate.

Table 8: Resettlement and Livelihoods Restoration Operational Plan

No.	Action Item	Responsibility	Timeframe	Frequency	Budget
1.	EDCL Expropriation Completion Report – Site Property	EDCL	Prior to Construction	Once Off	-
2.	Verification that final expropriation payments have been made for the Site Property	EDCL	Prior to Construction	Once Off	-
3.	Final layout and design of off-shore infrastructure – GEF and export pipeline layout and navigation and night light design	SPLKL	Prior to Construction	Once Off	Included in existing project scope
4.	Baseline survey of affected fisheries.	SPLKL	Prior to Construction	Once Off	To be Determined
5.	Baseline survey of affected tourism activities	SPLKL	Prior to Construction	Once Off	To be Determined
6.	Development of Resettlement database covering all resettled parties. Include details of dependents	EDCL / SPLKL	Prior to Construction, additions during construction	Once Off	Included in existing project scope
7.	Assessment of Livelihoods Impacts for ex-landowners with regards to cropping and fruiting being affected. Develop database, Include details of dependents and assessment of vulnerability.	EDCL / SPLKL	Prior to Construction, additions during construction	Once Off	Included in existing project scope
8.	Assessment of Livelihoods Impacts for fisheries and other affected peoples. Develop database, Include details of dependents and assessment of vulnerability.	SPLKL	Prior to Construction, additions during construction	Once Off	To be Determined
9.	Establish Grievance Information Management System	SPLKL	Prior to Construction	Once Off	Included in existing project scope

No.	Action Item	Responsibility	Timeframe	Frequency	Budget
10.	Establish Environmental, Community Liaison and Livelihoods Tracking and Monitoring Information Management System	SPLKL	Prior to Construction	Once Off	To be Determined
11.	Establishment of Community Liaison and Livelihoods Team	SPLKL	Prior to Construction	Once Off	To be Determined
12.	Consolidated monitoring reports of the Community Liaison and Livelihoods Team	SPLKL	Construction Phase	Monthly	To be Determined
13.	Community Liaison and Livelihoods Team Oversight Meeting	SPLKL	Construction Phase	Quarterly	To be Determined
14.	Evaluation Reporting on Resettlement and Livelihoods Restoration Process	SPLKL (external party)	Construction Phase	Annually	To be Determined
15.	Livelihoods Completion Audit	SPLKL (external party)	Post Construction Phase	Once Off	To be Determined
16.	Livelihoods Audit	SPLKL (external party)	Operations Phase	Annually	To be Determined

The operational plan will be implemented within the stated timeframes to ensure that its corporate environmental and social commitment is fulfilled.

7 REFERENCES

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