

**MINISTRY OF EDUCATION, YOUTH AND SPORTS
(MEYS)**

REPUBLIC OF GHANA

EDUCATION SECTOR PROJECT

(EdSeP)

RESETTLEMENT POLICY FRAMEWORK

JUNE, 2003

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1.0 INTRODUCTION

This Resettlement Policy Framework (RPF) establishes the resettlement and compensation principles, organizational arrangements and design criteria to be applied to meet the needs of the people who may be affected by the project activities resulting in land acquisition, loss of shelter, loss of assets or livelihoods, and/or loss of access to economic resources. The RPF is prepared to the standards of the Government of Ghana as specified in relevant legislation and the policy of the World Bank, OP 4.12 .

1.1 Programme Description

The proposed project for which this RPF is being prepared is known as The Education Sector Project (EdSeP), for the Ministry of Education, Youth and Sports (MEYS).

The projects overall objective is (i) to strengthen the efficiency and management of the education sector, and (ii) to ensure equitable access to quality education services at all levels. The project is structured to achieve its objectives into three project components with the following activities:

- **Component A – Sector Capacity Building**

“Capacity building” in this project is defined as a product of several factors including: (i) the division of labor among organizations in the sector and within each organization, (ii) the leadership and direction in the sector and its organizations, (iii) general management procedures and practices , and (iv) management of specific , key resources by them. The focus is on human resources, financial resources, information resources and physical resources. Component activities are aimed at addressing weaknesses related to each of these factors. Activities are organized in two sub-components: Sector –Based Restructuring and Agency –Based Capacity Building and Modernization. The first sub-component consists of operations that cut across, and improve, the workings of the entire education sector, while the second sub-component consists of operations that are carried out by individual organizations in the sector and are aimed at improving their capacity to play their distinct roles in it. The two sub-components would be carried out sequentially in three phases.

- **Component B – Pilot Programmatic Scheme**

The Pilot Programmatic Scheme (PPS) is an innovative mechanism to provide programmatic support to the education sector. It would offer an opportunity to pilot, on a relatively limited scale, the programmatic approach that the whole sector is poised to adopt in the longer run. During the first phase, it would be targeted on basic education until the Project Mid-term Review, with a possible extension to other pre-tertiary education institutions thereafter (depending on successes). The PPS would also be targeted on 40 most deprived districts. The scheme would channel funds from the MEYS to GES districts offices, in support of non-salary recurrent expenditures, instead of identifying ex ante all inputs to be financed during the project. Funds will be released on

a quarterly basis, against the performance of the sector in achieving the objectives of its previous year Program of Work (PoW), and on an agreement on the next annual PoW.

- **Component C – Tertiary Education Innovation**

All component activities would be funded through demand-driven Teaching and Learning Innovation Fund (TALIF). The funds overall objectives are: (i) to raise the quality of teaching and learning performance, (ii) to sharpen the relevance, competence and skill content of tertiary education; (iii) to improve the efficiency by which institutions operate their academic programs; and (iv) through the combined efforts of these, augmented by the development of distance education capabilities and earmarked assistance to the University of Development Studies in the disadvantaged northern region, to open up greater access to tertiary level academic programs. TALIF would have seven separate funding “windows” to which proposals from tertiary institutions may be submitted. These are: (a) Polytechnic curricula quality and relevance; (b) Strengthening post-graduate programs; (c) Leadership and management development; (d) Capacity-building for tertiary distance education; (e) the University of Development Studies; (f) HIV/AIDS prevention and management; and (g) Technical strengthening of tertiary oversight bodies.

2.0 WORLD BANK OPERATIONAL POLICY (OP 4.12)

This OP is on involuntary resettlement and apply to all projects for which a Project Concept Review takes place on or after January 1, 2002.

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

2.1 Policy Objectives

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

- (a) Involuntary resettlement should be avoided where feasible, or minimised, exploring all viable alternative project designs.
- (b) Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. Displaced persons should be meaningfully

consulted and should have opportunities to participate in planning and implementing resettlement programs.

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

This policy covers direct economic and social impacts that both result from bank-assisted investment projects, and are caused by:

- (a) The involuntary taking of land resulting in
 - (i) relocation or loss of shelter;
 - (ii) lost of assets or access to assets; or
 - (iii) loss of income sources or means of livelihood, whether or not the affected persons must move to another location or
- (b) The involuntary restriction of access to legally designated parks and protected areas resulting adverse impacts on the livelihoods of the displaced persons.

However, where impacts on the entire displaced population are minor, or fewer than 200 people are displaced, which is much more than it is in the case of the Education Sector Project, an abbreviated resettlement plan may be agreed with the borrower. For projects such as this, involving restriction of access in accordance with para 3(b) (See annex 1), the MEYS is providing the Bank with a draft resettlement policy framework that conforms to the relevant provisions of OP 4.12 as a condition for appraisal.

2.1.2 Scope of Land Acquisition and OP 4.12

Due to the likelihood that rehabilitation of some of the education facilities may lead to land acquisition and as the exact locations are not known at the time of project preparation, the Government is taking the precautionary measure to prepare a resettlement policy framework in compliance with the World Bank Operational Policy 4.12 (Involuntary settlement). MEYS will carry out a social assessment with the objective to identify all those areas and sites where there will be an impact on land, people and property and access to resources due to possible expansion of education facilities. In cases where land acquisition will cause adverse impact on people and property or people's access to land or property, the resettlement and compensation procedures as described in the resettlement framework will be applicable.

3.0 CATEGORY OF AFFECTED PERSONS

The category of affected persons are defined as those who stand to lose, as a consequence of the project, all or part of their physical and non-physical assets, including homes, communities, productive lands, resources such as range lands, farm lands, or important cultural sites, commercial/business properties, tenancy, income-earning opportunities, and social and cultural networks and activities.

3.1 The Entitlement Matrix

Based on analysis of the impact of the programme and eligibility policies, an entitlement matrix has been developed based on categories of affected persons according to losses and their entitlement benefits. The matrix proposes eligibility and payments for all kinds of losses (e.g., land, housing, businesses, other income sources, temporary loss of income, displacement, and moving costs). It sets standards for compensation.

Type of Losses from Land Acquisition

Category	Types of Loss
Land	<ul style="list-style-type: none"> • Agricultural land • House plot (owned or occupied) • Business premises (owned or occupied) • Access to natural resources • Traditional use-rights • Community or pasture land • Access to fishponds and fishing places
Structures	<ul style="list-style-type: none"> • House or living quarters • Other physical structures • Structure used in commercial/Business/industrial activity • Displacement from rented or occupied commercial/business premises
Income and livelihood	<ul style="list-style-type: none"> • Income from standing crops • Income from rent or sharecropping • Income from wage earnings • Access to work opportunities • Income from affected business • Income from tree or perennial crops • Income from forest products • Income from fishponds and fishing places • Income from grazing land • Subsistence from any of these sources
Community and cultural sites	<ul style="list-style-type: none"> • Schools, community centers, markets, health centers, • Shrines, other religious symbols or sites • Places of worship (church, temple, mosque) • Cemeteries, burial sites • Rights to food, medicines and natural resources • Intellectual property rights
Environment related	<ul style="list-style-type: none"> • Losses due to environmental impacts that might result from land acquisition or from the programme itself

Entitlement Matrix of a Proposed Compensation and Resettlement Policy

Type of Loss	Application	Definition of Entitled Person	Compensation Policy	Implementation Issues
Loss of arable and grazing land	a) Arable and grazing land located in the site for the infrastructure, and the infrastructure easement areas	a) Farmers or land owners who own, cultivate the land for crops or use land for livestock grazing	a) Provide equivalent land nearby. b) If land is available elsewhere, provide assistance to farmer or land owner for intensification and diversification on that land. c) If land is not available elsewhere then provide full compensation. d) Farmer or land owner may opt for payment of full compensation.	a) A list of available arable and grazing land in each affected commune is required b) Assistance to farmers to develop new crops and intensify production for both crops and livestock. c) A list of affected and entitled persons d) If agreements have been reached on mode of compensation settlement, provide evidence.
Loss of non-arable land	a) Non arable land located in the site for the infrastructure, and the infrastructure easement areas	a) Persons who own land b) Persons with no formal legal right or claim to the land c) Squatters and persons in ownership dispute	a) Provide equivalent land nearby b) If land is not available elsewhere then provide full compensation. c) If land owner opt for payment of full compensation obliged	a) A list of available non arable land in each affected commune is required b) Compensations provided. c) List of persons affected d) If agreements have been reached on mode of compensation settlement, provide evidence.
Loss of non-residential land	a) Residential land located in the site for the infrastructure, and the infrastructure easement areas	a) Persons who own land b) Persons with no formal legal right or claim to the land c) Squatters and persons in ownership dispute	a) Provide equivalent land nearby b) If land is not available elsewhere then provide full compensation.	a) A list of available residential land in each affected commune is required b) Compensations provided. c) If agreements have been reached on mode of compensation settlement, provide evidence.

<p>Loss of commercial, businesses and industrial activities</p>	<p>a) Loss of commercial, and industrial activities located or operated in the site of the infrastructure, and the infrastructure easement areas</p>	<p>a) Owner and workers of the commercial, business and industrial activities or whoever operates the business at the site of the infrastructure.</p>	<p>a) Full compensation payment to the owner, workers and operators b) Relocate business, or commercial and industrial activity to site acceptable to the affected persons.</p>	<p>a) A list of available commercial, business or industrial activity land in each affected commune is required b) Compensations provided. c) If agreements have been reached on mode of compensation settlement, provide evidence.</p>
<p>Loss of structures</p>	<p>a) Structures located in the site of the infrastructure, and the infrastructure easement areas</p>	<p>a) Persons who own structure b) Persons with no formal legal right or claim to the structure c) Squatters and persons in ownership dispute</p>	<p>a) Full compensation payment to the cover loss of the structure and loss of income during the period the affected person could not reap any income. b) Relocate structure to site acceptable to the affected persons.</p>	<p>a) A list of available structure in each affected commune is required b) Compensations provided. c) If agreements have been reached on mode of compensation settlement, provide evidence.</p>
<p>Loss of standing crops and livestock</p>	<p>a) Crops and livestock located on the land for the infrastructure, and the infrastructure easement areas</p>	<p>a) Farmers who cultivate or use the land for livestock grazing</p>	<p>Full compensation payment.</p>	<p>a) Prices of agricultural products in local markets have to be checked for comparison. b) Affected persons will be given notice several months in advance regarding evacuation. c) The construction work schedule has to take into account the cropping patterns and seasons so as to avoid destruction.</p>

Loss of trees and other plants species	a) Trees and other plant species located on the land for the infrastructure, and the infrastructure easement areas	a) Land owner, concession holders, tenants, squatters, communities who utilize the land where trees and other plant species are located.	a) Full compensation payment based on type, age and diameter of trees. b) Provide equivalent land nearby for replanting.	a) Make an inventory of the tree and plant species list. b) Determine individual need or compensations volumes. c) Effect payment of compensation to affected persons or communities. c) An assessment for maintaining that kind of vegetation e) If agreements have been reached on mode of compensation settlement, provide evidence.

4.0 ELIGIBILITY CRITERIA

Lands Policy and World Bank OP 4.12

The project's overall goals are to (i) strengthen the efficiency and management of the education sector, and (ii) ensure equitable access to quality education services at all levels.

Under the proposed EdSeP, when any civil works are planned, efforts will be made to minimise impacts on land, people and property and access to resources due to expansion, rehabilitation or construction of new education facilities. However, in cases where land acquisition will cause adverse impact on people and property or people's access to land or property, the resettlement and cash compensation payment shall be made in accordance to the World Bank OP 4.12 as well as the Lands Act 1963 Section 6(1).

Eligibility

Persons that may be classified according to the following three groups as displaced persons shall be eligible for compensation and resettlement assistance:

- Those who have formal legal rights to land (including customary and traditional rights recognized under the Lands Act).
- Those who do not have formal legal rights to land at the time the census begins but have a recognizable legal right or claim to such land or assets.
- Those who have no recognizable legal right or claim to the land they are occupying i.e. squatters, ownerships under dispute etc.

It is the policy of the Government of Ghana to pay compensation or offer resettlement assistance to people whose properties, lands or landed property are affected by projects being undertaken by the Government. Land for land will be provided where appropriate. The State Lands Act 1963 section 6(1) provides that any person whose property is affected by public projects shall be entitled to compensation. The same Act provides avenues for people who are not satisfied with compensation to seek redress.

5.0 LEGAL FRAMEWORK

5.1 Resettlement/compensation policy in Ghana

It is the policy of the Government of Ghana to pay compensation or offer resettlement assistance to people whose properties, lands or landed property are affected by projects being undertaken by the Government. Land for land will be provided where appropriate. The State Lands Act 1963 section 6(1) provides that any person whose property is affected by public projects shall be entitled to compensation. The same Act provides avenues for people who are not satisfied with compensation to seek redress.

5.2 Land Acquisition and Compensation laws

Acquisition of land for infrastructure development projects is regulated by the Lands Act 1963 Act 186. The instrument contains the following:

A description (with measurements) of the land affected by the Statutory wayleave together with a plan showing the position of the tertiary education facility construction works.

A copy of the way leave is served on the owner or occupier of the land affected by the Statutory way leave. Under Section 6(1) of the Act, any person who suffers any loss or damage as a result of the rehabilitation of the tertiary education facilities shall be entitled to compensation. A claim for compensation shall be made to the Minister in a prescribed form that will be set out in the Resettlement Action Plan, not more than three months after the date of declaration made by the President under section 1 of the Act.

5.3 Land Ownership In Ghana

Land ownership system in Ghana is governed by a complex operation of both customary, statute and common law resulting in a rather uniquely complicated land ownership structure. There are three principal land ownership in Ghana namely:

1. Customary owned,
2. State owned
3. Customary owned but state managed Lands also known as vested lands.

5.3.1 Customary Ownership

Customary ownership occurs where the right to use or to dispose of use-rights over land rest governed purely by customary laws of the land owning community. Customary laws in Ghana vary from one community to another and the Ghanaian society is made up of various ethnic communities with their varying social structure, customary practices and norms. These customary laws and norms rest neither on the exercise of brute force, nor on the evidence of rights guaranteed by government statute, but on the fact that they are recognised as legitimate by the community, the rules governing the acquisition and transmission of these rights being usually explicitly and generally known, though not normally recorded in writing (Bower, 1993). Such ownership may occur in any one or a combination of the following ways:

1. Discovery and long uninterrupted settlement
2. Conquest through war and subsequent settlement
3. Gift from another land owning group or traditional overlord
4. Purchase from another land owning group.

Within the customary owned land system various schemes of interest with varying quantum of rights exist. The *Allodial title* is the highest quantum of land right capable of ownership and it forms the basis of all land rights in Ghana. The Allodial title in land is

equivalent to the common law freehold rights. These rights are vested either in a stool or a skin, a clan, a family, an earth priest or a private individual person.

Other lesser interest that such as usufructuary interest, tenancies, licenses and pledges emanates from the Allodial title. In Ghana customary lands are managed by a custodian (a chief or a head of family) together with a council of principal elders appointed in accordance with the customary law of the land owning community. The custodian and the elders are necessarily members of the land owning community and are expected by customary law to hold the land in fiduciary capacity in trust for the members of the land owning community. They are thus accountable to the members of the land owning community for their stewardship. Membership is obtained by birth. All grants of land rights by the custodian require the concurrence of at least two of the principal elders for the grant to be valid..

Customary ownership presents considerable land acquisition problems in Ghana. The boundaries of most customary owned lands are not generally surveyed and in some cases undefined. It is also plagued with land ownership squabbles and trying to identify the true owner of any piece of land can be risky. There is improper record keeping of judgments, dispositions and other records relating to the land by the custodians. In many instances there is the need to distinguish between jurisdictional rights of custodians and propriety rights in land.

5.3.2 *State Lands*

State lands are those specifically acquired by government under an appropriate enactment using the state powers of eminent domain. Currently the principal acquiring legislation is the State Lands Act of 1962, Act (122) for public purposes or in the public interest. Under such ownership the allodial rights become vested in government who can then proceed to dispose of the lands by way of leases, certificate of allocations, licences etc to relevant beneficiary state institutions as well as private individuals and organisations. The boundaries of these lands are cadastrally surveyed but are scattered throughout the country.

5.3.3 *Vested Lands*

The third category of land in Ghana is the generally referred to as vested lands and they are lands owned by a stool but managed by the state on behalf of the land owning stool or skin. Under such ownership the legal rights to sell, lease, manage, collect rent, is taken away from the customary landowners by the application of specific law to that land and vested in the state. The landowners retain the equitable interest in the land i.e. the right to enjoy the benefits from the land. This category of land is managed in the same way as state lands. Unlike state lands however, the boundaries are not cadastral surveyed and they are usually larger in size, covering wide areas.

Because in Ghana there is no land without an owner it is presumed that any parcel of land in Ghana would fall within one of the above-discussed categories and since state and vested lands are acquired expressly through legislation, all other lands outside these categories belong to the class of customary lands – stools, clans or families.

The acquisition of land for government projects is regulated by the Lands Act 1963. Under Section 6(1) of the Act, any person who suffers any loss or damage as a result of construction, rehabilitation, maintenance etc shall be entitled to compensation. A claim for compensation shall be made through the Minister in the prescribed form not more than three months after the date of declaration made by the President under Section 1 of the Act.

6.0 METHODS OF VALUING and DELIVERY OF ENTILEMENTS

6.1 Farm/Grazing Lands

Where a farm is the perennial plantation type, the investment method is used for the assessment. In this case the net annual income from the farm is capitalised at the appropriate interest rate over the expected remaining life of the farm. For others like the grazing grass, seasonal crops and the isolated perennial ones, the acreage/unit rates are used.

6.2 Building, Structures and Businesses

Compensation for land and buildings, structures would also be assessed having regard to the market value of the affected property. Where particulars on transactions of similar properties are readily available and easily accessible, the simple comparative approach could be adopted, with the necessary adjustment made as a result of any minor differences in the conditions of the properties.

In instances where the properties affected are the types that do not change hands in the market, the comparative method can be used to arrive at the market value.

The market value would be arrived at by the “Replacement Cost”. The replacement cost figure to be determined which makes the property as if new would be depreciated by an appropriate percentage to arrive at the figure that is appropriately related to the property as it is. Drink money to be paid to the traditional land owners for building plots would be added to the depreciated figure obtained. (Hence the method termed “ Depreciated Replacement Cost of the Development plus the value of the land”). This in turn would be topped up by 10-15%, representing ‘ Removal and contingencies’, to arrive at the compensation payable.

6.3 Assessment of Entitlement

Properties to be affected by potential new construction, rehabilitation or expansion of education facilities should be inspected/referenced or enumerated jointly by the Estate Management/Valuation Unit of MEYS and the Land Valuation Board, the Government's statutorily accredited Valuation body. The Estate Management/Valuation Unit of MEYS should jointly undertake the inspection/referencing exercise with the Valuation Board's regional offices, according to the Region where the project is located. The Regional Education Administration Offices should also prepare independent reports/valuations, applying rates of value/cost determined by the Board. The method of depreciated replacement cost of the development plus the value of the land should be used in the assessment. The two independent reports/valuations should be submitted to the Board at the national level, for vetting and final approval for compensation.

6.4 Procedures for delivery of entitlements

Entitlements for project affected people would range from cash payments and/or building materials to the provision of new land, new homes and compensation for other lost properties in accordance with the identification of the impact on their property to which they will have needed to agree.

The approved entitlements or amounts would be communicated to the MEYS for delivery or payment to the beneficiaries. Compensation would be paid before the owners/occupiers are made to vacate their properties for commencement of construction or expansion works. To ensure that this procedure is complied with efforts would be made by the MEYS to ensure that no construction begins until project affected people have been resettled if physical relocation is necessary and/or received their compensations (according to World Bank Operational Policies OP 4.12).

All compensation, whether cash payments and /or alternative land and house provisions, would be given to project affected people, prior to any request for vacation of land/property and before commencement of construction. Under no circumstances should there be negotiations for the purpose of project affected people to be requested to vacate their home/cultivations etc because of delay in payments.

6.5 Time frame

Approval from the Land Valuation Board should not take more than an average of four months. No construction will begin until project affected people have been resettled if physical relocation is necessary and/or received their compensation (according to World Bank Policy OP 4.12). Additionally the property owners must be given notice to quit after payment of compensation. The duration of the notice will be set in accordance with existing laws of the country and with Bank procedures

7.0 CONFLICT MANAGEMENT

During consultation processes and at fora, the extent of damage to properties should be made known. When the amount of compensation to be paid is made known, the affected people have the right to appeal if not satisfied.

Where grievance entails inadequacy of compensation paid, the law, section 4 of the Lands Act 1963, provides for appeal to the “Lands Tribunal” –an ad judicatory body. Where the grievance relates to implementation of the resettlement plan, the affected persons should appeal to the District Assembly.

7.1 Consultation and participation

During the consultation stages of the projects, the affected people should be briefed on the compensation/resettlement process. Each affected person should be given the chance to speak on a draft compensation/resettlement plan particularly on issues of concern to him/her. Names and contact addresses should be compiled for a database at the Estate Management Unit. The final compensation and resettlement plan should be presented to the affected persons.

The relevant state agency should liaise with all those involved in the compensation/resettlement process to monitor the timing. The affected persons should be kept informed at the various stages of the process.

7.2 Financial responsibilities

It should be the responsibility of the Government of Ghana to pay compensation as provided under section 6(1) of the State Land Act 1963. The same Act directs people with claims to forward these to the Minister.

8.0 IMPLEMENTATION AND MONITORING PROCESS

During the project cycle, the implementation of some Program of Works (PoW) under Component B, may require civil works in the form of rehabilitation and/or expansion of education facilities.

The locations of these sites when they are identified would require the carrying out of a detailed social assessments to determine any potential social impacts. Therefore it has been agreed that the MEYS will prepare a framework for potential impacts (or possibly for people who will need to receive compensation) on people who live in the project areas. This framework will be applied in the likelihood that people will be affected negatively and will need to receive compensation.

The following steps would be followed:

Step1: Preparation of a Social Assessment

Social assessments need TORs to be prepared which should cover collection and evaluation of data in the following fields:

- Demographic and socio-economic profile of the people in the specific area
- Assessment of potential impact on cultural, social and economic spheres,
- Suggestion of mitigation plans if applicable.

Step II: Apply framework for compensation/resettlement

Such a framework, designed and approved of by government, should include information and instructions under the following headlines:

- Laws and regulations;
- Institutional arrangements;
- Resettlement/compensation eligibility criteria;
- Implementation procedures;
- Financial responsibilities, and
- A monitoring and evaluation.

Step III: Design a compensation/resettlement plan if applicable.

8.1 Institutional arrangements

The institutional arrangements should be built on existing structure in the MEYS, extending the survey and design of environmental and social works to the relevant State agency.

8.2 Monitoring and Evaluation

The primary aim of the M&E process is that the relevant state agency will carry out continuous process monitoring of the RPF in order to correct and catch any inconsistencies in how the resettlement is being implemented and to rectify them. The monitoring of the RPF would provide the managers and other stakeholders with continuous feedback on implementation.

The RPF's relevance, performance, efficiency, and impact (both expected and unexpected) in relation to the objectives shall be periodically monitored and evaluated. The evaluation would assess whether resettlement objectives were appropriate and whether they were met, specifically, whether livelihoods and living standards have been restored or enhanced. The resettlement evaluation shall take place during and after implementation.

The relevant agency shall be responsible for the monitoring and evaluation of the activities stipulated in the resettlement framework. The Land Valuation Board, Ministry of Finance and the Environmental Protection Agency shall act as independent monitors. Upon completion of the programme the MEYS shall undertake impact and beneficiary assessment to determine whether the objectives of the resettlement policy have been achieved.

Further, when applicable, the MEYS annual sector wide performance review will include a special section on the implementation of the resettlement policy. The special report on

the RPF during annual sector wide performance reviews would cover progress and impacts in implementing activities such as the following:

- Consultation with stakeholders;
- Socio-economic survey and affected persons identification;
- Land acquisition;
- Compensation payment;
- Site selection and development;
- Plot distribution;
- Relocation of displaced persons;
- Income restoration programs
- Inputs, outputs, and outcomes for resettlement activities, involvement of the displaced persons and evaluation of the impact of resettlement especially on the beneficiaries.

As an additional measure but not to substitute responsibility of MEYS (the borrower), the World Bank team will regularly, during each implementation support mission evaluate progress and impacts of RP, identify constraints and suggest remedies as well as impact made on the implementation of the resettlement policy.

ANNEXES

1.0 World Bank Operational Manual OP 4.12.

Operational Manual - OP 4.12
December 2001

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

Note: OP and BP 4.12 together replace OD 4.30, Involuntary Resettlement. This OP and BP apply to all projects for which a Project Concept Review takes place on or after January 1, 2002. Questions may be addressed to the Director, Social Development Department (SDV).

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

Policy Objectives

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

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

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

(c) Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.⁴

Impacts Covered

3. This policy covers direct economic and social impacts⁵ that both result from Bank-assisted investment projects⁶, and are caused by

(a) the involuntary⁷ taking of land⁸ resulting in

(i) relocation or loss of shelter;

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

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

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

4. This policy applies to all components of the project that result in involuntary resettlement, regardless of the source of financing. It also applies to other activities resulting in involuntary resettlement, that in the judgment of the Bank, are (a) directly and significantly related to the Bank-assisted project, (b) necessary to achieve its objectives as set forth in the project documents; and (c) carried out, or planned to be carried out, contemporaneously with the project.

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

Required Measures

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

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

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

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

- (iii) provided prompt and effective compensation at full replacement cost¹¹ for losses of assets¹² attributable directly to the project.
- (b) If the impacts include physical relocation, the resettlement plan or resettlement policy framework includes measures to ensure that the displaced persons are
 - (i) provided assistance (such as moving allowances) during relocation; and
 - (ii) provided with residential housing, or housing sites, or, as required, agricultural sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site.¹³
- (c) Where necessary to achieve the objectives of the policy, the resettlement plan or resettlement policy framework also include measures to ensure that displaced persons are
 - (i) offered support after displacement, for a transition period, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living;¹⁴ and
 - (ii) provided with development assistance in addition to compensation measures described in paragraph 6(a) (iii), such as land preparation, credit facilities, training, or job opportunities.

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

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

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

8. To achieve the objectives of this policy, particular attention is paid to the needs of vulnerable groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children, indigenous peoples,¹⁵ ethnic minorities, or other displaced persons who may not be protected through national land compensation legislation.

9. Bank experience has shown that resettlement of indigenous peoples with traditional land-based modes of production is particularly complex and may have significant adverse impacts on their identity and cultural survival. For this reason, the Bank satisfies itself that the borrower has explored all viable alternative project designs to avoid physical displacement of these groups. When

it is not feasible to avoid such displacement, preference is given to land-based resettlement strategies for these groups (see para. 11) that are compatible with their cultural preferences and are prepared in consultation with them (see Annex A, para. 11).

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

11. Preference should be given to land-based resettlement strategies for displaced persons whose livelihoods are land-based. These strategies may include resettlement on public land (see footnote 1 above), or on private land acquired or purchased for resettlement. Whenever replacement land is offered, resettlers are provided with land for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the land taken. If land is not the preferred option of the displaced persons, the provision of land would adversely affect the sustainability of a park or protected area,¹⁶ or sufficient land is not available at a reasonable price, non-land-based options built around opportunities for employment or self-employment should be provided in addition to cash compensation for land and other assets lost. The lack of adequate land must be demonstrated and documented to the satisfaction of the Bank.

12. Payment of cash compensation for lost assets may be appropriate where (a) livelihoods are land-based but the land taken for the project is a small fraction¹⁷ of the affected asset and the residual is economically viable; (b) active markets for land, housing, and labor exist, displaced persons use such markets, and there is sufficient supply of land and housing; or (c) livelihoods are not land-based. Cash compensation levels should be sufficient to replace the lost land and other assets at full replacement cost in local markets.

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

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

(b) In new resettlement sites or host communities, infrastructure and public

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

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

Eligibility for Benefits¹⁸

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

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

- (a) those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country);
- (b) those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets¹⁹; provided that such claims are recognized under the laws of the country or become recognized through a process identified in the resettlement plan (see Annex A, para. 7(f)); and¹⁹
- (c) those who have no recognizable legal right or claim to the land they are occupying.

16. Persons covered under para. 15(a) and (b) are provided compensation for the land they lose, and other assistance in accordance with para. 6. Persons covered under para. 15(c) are provided resettlement assistance²⁰ in lieu of compensation for the land they occupy, and other assistance, as necessary, to achieve the objectives set out in this policy, if they occupy the project area prior to a cut-off date established by the borrower and acceptable to the Bank.²¹ Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance. All persons included in para. 15(a), (b), or (c) are provided compensation for loss of assets other than land.

Resettlement Planning, Implementation, and Monitoring

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

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

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

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

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

19. Resettlement planning includes early screening, scoping of key issues, the choice of resettlement instrument, and the information required to prepare the resettlement component or subcomponent. The scope and level of detail of the resettlement instruments vary with the magnitude and complexity of resettlement. In preparing the resettlement component, the borrower draws on appropriate social, technical, and legal expertise and on relevant community-based organizations and NGOs.²² The borrower informs potentially displaced persons at an early stage about the resettlement aspects of the project and takes their views into account in project design.

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

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

22. As a condition of appraisal of projects involving resettlement, the borrower provides the Bank with the relevant draft resettlement instrument which conforms to this policy, and makes it available at a place accessible to displaced persons and local NGOs, in a form, manner, and language that are understandable to them. Once the Bank accepts this instrument as providing an adequate basis for project appraisal, the Bank makes it available to the public through its InfoShop. After the Bank has approved the final resettlement instrument, the Bank and the borrower disclose it again in the same manner.²³

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

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

Resettlement Instruments

Resettlement Plan

25. A draft resettlement plan that conforms to this policy is a condition of appraisal (see Annex A, paras. 2-21) for projects referred to in para. 17(a) above.²⁴ However, where impacts on the entire displaced population are minor,²⁵ or fewer than 200 people are displaced, an abbreviated resettlement plan may be agreed with the borrower (see Annex A, para. 22). The information disclosure procedures set forth in para. 22 apply.

Resettlement Policy Framework

26. For sector investment operations that may involve involuntary resettlement, the Bank requires that the project implementing agency screen subprojects to be financed by the Bank to ensure their consistency with this OP. For these operations, the borrower submits, prior to appraisal, a resettlement policy framework that conforms to this policy (see Annex A, paras. 23-25). The framework also estimates, to the extent feasible, the total population to be displaced and the overall resettlement costs.

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

28. For other Bank-assisted project with multiple subprojects²⁶ that may involve involuntary resettlement, the Bank requires that a draft resettlement plan conforming to this policy be submitted to the Bank before appraisal of the project unless, because of the nature and design of the project or of a specific subproject or subprojects (a) the zone of impact of subprojects cannot be determined, or (b) the zone of impact is known but precise sitting alignments cannot be determined. In such cases, the borrower submits a resettlement policy framework consistent with this policy prior to appraisal (see Annex A, paras. 23-25). For other subprojects that do not fall within the above criteria, a resettlement plan conforming to this policy is required prior to appraisal.

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

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

Process Framework

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

Assistance to the Borrower

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

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

strategies, and specific plans, and for implementation, monitoring, and evaluation of resettlement activities; and

(d) financing of the investment costs of resettlement.

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

34. The Bank does not disburse against cash compensation and other resettlement assistance paid in cash, or against the cost of land (including compensation for land acquisition). However, it may finance the cost of land improvement associated with resettlement activities.

1. "Bank" includes IDA; "loans" includes credits, guarantees, Project Preparation Facility (PPF) advances and grants; and "projects" includes projects under (a) adaptable program lending; (b) learning and innovation loans; (c) PPFs and Institutional Development Funds (IDFs), if they include investment activities; (d) grants under the Global Environment Facility and Montreal Protocol, for which the Bank is the implementing/executing agency; and (e) grants or loans provided by other donors that are administered by the Bank. The term "project" does not include programs under adjustment operations. "Borrower" also includes, wherever the context requires, the guarantor or the project implementing agency.

2. In devising approaches to resettlement in Bank-assisted projects, other Bank policies should be taken into account, as relevant. These policies include OP 4.01 Environmental Assessment, OP 4.04 Natural Habitats, OP 4.11 Safeguarding Cultural Property in Bank-Assisted Projects, and OD 4.20 Indigenous Peoples.

3. The term "displaced persons" refers to persons who are affected in any of the ways described in para. 3 of this OP.

4. Displaced persons under para. 3(b) should be assisted in their efforts to improve or restore their livelihoods in a manner that maintains the sustainability of the parks and protected areas.

5. Where there are adverse indirect social or economic impacts, it is good practice for the borrower to undertake a social assessment and implement measures to minimize and mitigate adverse economic and social impacts, particularly upon poor and vulnerable groups. Other environmental, social, and economic impacts that do not result from land taking may be identified and addressed through environmental assessments and other project reports and instruments.

6. This policy does not apply to restrictions of access to natural resources under community-based projects, i.e. where the community using the resources decides to restrict access to these resources, provided that an assessment

satisfactory to the Bank establishes that the community decision-making process is adequate, and that it provides for identification of appropriate measures to mitigate adverse impacts, if any, on the vulnerable members of the community. This policy also does not cover refugees from natural disasters, war, or civil strife (see OP/BP 8.50, Emergency Recovery Assistance).

7. For purposes of this policy, "involuntary" means actions that may be taken without the displaced person's informed consent or power of choice.

8. "Land" includes anything growing on or permanently affixed to land, such as buildings and crops. This policy does not apply to regulations of natural resources on a national or regional level to promote their sustainability, such as watershed management, groundwater management, fisheries management, etc. The policy also does not apply to disputes between private parties in land titling projects, although it is good practice for the borrower to undertake a social assessment and implement measures to minimize and mitigate adverse social impacts, especially those affecting poor and vulnerable groups.

9. For the purposes of this policy, involuntary restriction of access covers restrictions on the use of resources imposed on people living outside the park or protected area, or on those who continue living inside the park or protected area during and after project implementation. In cases where new parks and protected areas are created as part of the project, persons who lose shelter, land, or other assets are covered under para. 3(a). Persons who lose shelter in existing parks and protected areas are also covered under para. 3(a).

10. The Resettlement Sourcebook (forthcoming) provides good practice guidance to staff on the policy.

11. "Replacement cost" is the method of valuation of assets that helps determine the amount sufficient to replace lost assets and cover transaction costs. In applying this method of valuation, depreciation of structures and assets should not be taken into account (for a detailed definition of replacement cost, see Annex A, footnote 1). For losses that cannot easily be valued or compensated for in monetary terms (e.g., access to public services, customers, and suppliers; or to fishing, grazing, or forest areas), attempts are made to establish access to equivalent and culturally acceptable resources and earning opportunities. Where domestic law does not meet the standard of compensation at full replacement cost, compensation under domestic law is supplemented by additional measures necessary to meet the replacement cost standard. Such additional assistance is distinct from resettlement assistance to be provided under other clauses of para. 6.

12. If the residual of the asset being taken is not economically viable, compensation and other resettlement assistance are provided as if the entire asset had been taken.

13. The alternative assets are provided with adequate tenure arrangements. The cost of alternative residential housing, housing sites, business premises, and agricultural sites to be provided can be set off against all or part of the compensation payable for the corresponding asset lost.

14. Such support could take the form of short-term jobs, subsistence support, salary maintenance or similar arrangements

15. See OD 4.20, Indigenous Peoples.
16. See OP 4.04, Natural Habitats.
17. As a general principle, this applies if the land taken constitutes less than 20% of the total productive area.
18. Paras. 13-15 do not apply to impacts covered under para. 3(b) of this policy. The eligibility criteria for displaced persons under 3 (b) are covered under the process framework (see paras. 7 and 30).
19. Such claims could be derived from adverse possession, from continued possession of public lands without government action for eviction (that is, with the implicit leave of the government), or from customary and traditional law and usage, and so on.
20. Resettlement assistance may consist of land, other assets, cash, employment, and so on, as appropriate.
21. Normally, this cut-off date is the date the census begins. The cut-off date could also be the date the project area was delineated, prior to the census, provided that there has been an effective public dissemination of information on the area delineated, and systematic and continuous dissemination subsequent to the delineation to prevent further population influx.
22. For projects that are highly risky or contentious, or that involve significant and complex resettlement activities, the borrower should normally engage an advisory panel of independent, internationally recognized resettlement specialists to advise on all aspects of the project relevant to the resettlement activities. The size, role, and frequency of meeting depend on the complexity of the resettlement. If independent technical advisory panels are established under OP 4.01, Environmental Assessment, the resettlement panel may form part of the environmental panel of experts.
See BP 17.50, Disclosure of Operational Information (forthcoming) for detailed disclosure procedures.
24. An exception to this requirement may be made in highly unusual circumstances (such as emergency recovery operations) with the approval of Bank Management (see BP 4.12, para. 8). In such cases, the Management's approval stipulates a timetable and budget for developing the resettlement plan.
25. Impacts are considered "minor" if the affected people are not physically displaced and less than 10% of their productive assets are lost.
26. For purpose of this paragraph, the term "subprojects" includes components and subcomponents.