

MCA-Armenia
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Republic of Armenia

Resettlement Policy Framework

Final Draft

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**Component Design-Level EIA's, SIA's, EMP's
and RAP's for IAP**

**MCA-Armenia Program to Facilitate Poverty
Reduction Through Economic Growth**

**Environmental and Social Assessment and
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Preface

This document is submitted in lieu of a full Environmental Impact Assessment/Social Impact Assessment (EIA/SIA) for Agrija reservoir, and should be considered an interim version of the required Component Level EIA/SIA with Environmental Management Plan (EMP) and Resettlement Action Plan (RAP), if required. As of the second quarter of calendar year 2008, no final decision had been rendered nor was expected regarding the feasibility of the Agrija reservoir, nor whether it would be recommended for retention in the MCA-Armenia program. Although critical for purposes of completing an EIA/SIA/EMP/RAP, definition of the project and reliable specifications regarding the configuration and footprint of the project had not been determined. In particular, inclusion and/or integration of the Agrija dam and reservoir with the Hydro Power Project (HPP) small hydropower project immediately adjacent to the proposed dam site for Agrija had not been determined. This makes presentation of the data that had been collected over the course of several site visits inadvisable at this time. Instead, the extensive work undertaken to draft and finalize a resettlement policy framework in preparation for a possible RAP at Agrija is presented.

History of Resettlement Policy Framework (RPF) Development

On 28 January 2008 a paper was submitted to MCA-Armenia with the purpose to provide background notes on involuntary resettlement and to suggest principles and procedures to be followed within the MCA-Armenia Programme if involuntary resettlement as a result of implementation of the Programme would be unavoidable. The paper was triggered by indications in the first batch of feasibility studies that were undertaken related to the IAP/IA sub-components in the last quarter of 2007 that identified potential and unforeseen resettlement impacts.

Subsequently, the ESAOC was requested by MCA-Armenia to prepare a draft Resettlement Policy Framework (RPF) in accordance with World Bank and MCC policies that apply to the Programme. A “zero draft” RPF was submitted to MCA-Armenia on 06 February 2008. Further work was undertaken towards the end of March 2008 when MCC and MCA-Armenia comments on the first draft were received resulting in draft RPF (1) dated 31 March 2008.

During the following two months (April and May) a considerable amount of meetings and discussions were held between MCA-Armenia and ESAOC leading to several revisions of the RPF. In addition, involvement and advice on the RPF (and the preparation of Resettlement Action Plans, as needed) from an MCC mission was obtained that visited Armenia for this purpose from 07 – 17 May 2008. The MCC mission included Mr Warren A. Van Wicklin III, PhD – International Development Consultant; Social Development, Evaluation and Policy Analysis; and Mr John Craig Wakefield, Program Officer Environmental and Social Assessment; MCC Department of Compact Implementation.

On 25 May 2008 ESAOC re-submitted to MCA-Armenia the substantially revised and elaborated RPF (Final Draft 4) resulting from intensive collaboration with the MCC mission and MCA-Armenia. ESAOC subsequently engaged a legal adviser to further review and advice on the legal (Armenian) aspects of the document.

In the first week of June 2008 MCA-Armenia produced a scaled down version of the RPF that was submitted to MCC and ESAOC. Additional work was ongoing by ESAOC on legal aspects and a table was produced and submitted to MCA-Armenia on 17 June 2008 that compares Armenian laws and World Bank/MCC documentation to conclude on compensation arrangements for persons affected by the Programme.

The present and elaborate document from which the scaled down version of the RPF was abstracted will serve as the source document for further RAP preparation, in particular related to the Agrija dam and reservoir construction.

Glossary

ADB	Asian Development Bank
AMD	Armenian Dram
ARD	Armenian Road Directorate
DD	Due Diligence
EA	Environmental Assessment
EIA	Environmental Impact Assessment (equivalent to EA)
EMP	Environmental Management Plan
Environmental Expertise	State Environmental Expertise SNCO of the Ministry of Nature Protection
ESAOC	Environmental and Social Assessment Oversight Consultant
ESIA	Environmental and Social Impact Assessment
ESIO	Environmental and Social Impact Officer, Management Unit of MCA-Armenia SNCO
ESIS	Environmental and Social Impact Specialist, Management Unit of MCA-Armenia SNCO
FS/FD Consultant	Feasibility Study/Final Design Consultant
GIS	Geographic Information System
GoA	Government of Armenia
IA	Infrastructure Activity
IAP	Irrigated Agriculture Project
ICID	International Commission on Irrigation and Drainage
ICOLD	International Commission on Large Dams
IDP	Irrigation Development Project of the World Bank
IE	Implementing Entity
Irrigation PIU	Water Sector Development and Institutional Improvements Project Implementation Unit
LLN	Lifeline network (of roads)
MCC	Millennium Challenge Corporation
MCA-Armenia	Millennium Challenge Account - Armenia State Non-Commercial Organisation
MNP	Ministry of Nature Protection of the Republic of Armenia
MoTC	Ministry of Transport and Communications
NGO	Non-Governmental Organization
PAP	Project Affected Person
RAP	Resettlement Action Plan
RoA	Republic of Armenia
RoW	Right-of-Way
RPF	Resettlement Policy Framework
RRRP	Rural Road Rehabilitation Project
SIA	Social Impact Assessment
SNCO	State Non-Commercial Organisation
USAID	United States Agency for International Development
USD	United States of America Dollars
WB	World Bank
WTM	Water-to-Market Activity
WSA	Water Supply Agency
WUA	Water User Association

Definitions

The terms used in this document are defined as follows¹:

- * "Resettlement Policy Framework" (RPF) refers to the present document which is the overall Policy Framework for Resettlement of Project Affected Persons (PAPs) for the MCA-Armenia Program. The RPF describes the process and methods for carrying out resettlement under the Program, including compensation, relocation and rehabilitation of persons affected by the Program;
- * "PAP" means Project Affected Person and includes any person or persons who, on account of the execution of the Program, or any of its Projects, sub-components or parts thereof, will have their right, title, or interest in any house, land (including residential, agricultural and grazing land) or any other fixed or moveable asset acquired or possessed, in full or in part, permanently or temporarily, adversely affected; or business, occupation, work, place of residence or habitat adversely affected; or standard of living adversely affected;
- * The cut-off date for eligibility is publicly announced by the relevant Authorities of the Republic of Armenia (RoA) and the census of PAPs will be undertaken immediately after this announcement²;
- * For purposes of this policy, "involuntary" means actions that may be taken without the displaced person's informed consent or power of choice;
- * "Resettlement" is the general term related to land acquisition and compensation for loss of assets, whether it involves actual relocation, loss of land, shelter, assets or other means of livelihood and includes all the measures taken to mitigate any and all adverse impacts of the Program on PAPs' property and/or livelihood, including compensation, relocation (where relevant), and rehabilitation;
- * "Resettlement effects" includes the loss of crops and incomes, in addition to physical relocation. A resettlement effect is significant when more than 200 people are physically displaced and/or 10% or more of their productive assets are lost. A resettlement effect is considered "minor" if fewer than 200 people are displaced and less than 10% of their productive assets are lost;
- * "RAP" means Resettlement Action Plan, prepared for the Program, Projects or any of the sub-components;
- * "Sub-component" means any part of the two Projects under the MCA-Armenia Program;
- * "Relocation" means the physical relocation of a PAP or PAPs from their pre-Program place of residence;
- * "Replacement Value" 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;
- * "Compensation" means payment in cash or in kind of the replacement value of the acquired property;
- * "Rehabilitation" means the compensatory measures provided under this RPF other than payment of the replacement value of acquired property;

¹These definitions have been extracted from relevant World Bank and MCC resettlement documentation; for an overview of documents consulted see **Annex 7**.

² Normally, the cut-off date is the date the census begins. However, the public announcement by the relevant GoA Authorities will be considered as the cut-off date here; see also OP 4.12, footnote 21

- * "Land" includes anything growing on or permanently affixed to land, such as crops and buildings;
- * "Land Acquisition" means the process whereby a person is compelled by a public agency to alienate all or part of the land s/he owns or possesses to the ownership and possession of that agency, for public purpose, in return for a compensation;
- * "Right-of-Way Easement" means the process whereby the owner or possessor of land is compelled to permit the continued use of a part of his land as a means of transit of persons or services, in return for a compensation, but where the ownership of the land remains unchanged;
- * "Servitude", according to Armenian definitions, is the right of the Government to acquire land for the use of public projects that benefit the community. In accordance with the Land Code (Articles 50, 100), the landowner has a right to ask for compensation and a right to claim in Court compensation adjustments or the right to stop the Servitude;
- * "Grievance Redress Committee" means the committee established at Program level, with the participation of MCA-Armenia, to hear the complaints and grievances of PAPs regarding resettlement, including acquisition of land, houses and other assets, and loss of livelihoods caused by the Program.

Summary

The purpose of the Resettlement Policy Framework (RPF) is to provide the general guideline for the MCA-Armenia Compact for timely, adequate and efficient action to address, and minimise and/or mitigate, adverse impacts, in particular resettlement and resettlement issues, if and when these occur. In accordance with the World Bank resettlement policy (OP 4.12), a RPF needs to be prepared if the extent and location of resettlement cannot be known at appraisal because the project has multiple components, which is the case with the MCA-Armenia Compact. The “Environmental Impact Assessment of the Armenian Proposal to the Millennium Challenge Account (September 2005)”³ concluded that no major adverse impacts were expected and, if unforeseen impacts would arise, other and more adapted mitigation measures than the ones described in the EIA report may be required. During the execution of the first batch of feasibility studies related to some of the Compact sub-components in the last quarter of 2007, potentially significant impacts were identified that made the preparation of this RPF advisable.

³ MCA-Armenia’s Environmental Impact Assessment of the Armenian Proposal to the Millennium Challenge Account; September 2005; p.73

1 Introduction

1.1 The MCA-Armenia Program

The MCA-Armenia Program entered into force on 29 September 2006 and is funded by the Millennium Challenge Corporation (MCC). It includes the following two Projects:

A. Rural Road Rehabilitation Project (RRRP)

The RRRP will rehabilitate up to 943 km of rural roads, or 35% of the government-proposed lifeline road network (LLN). This includes 85 road segments throughout the country, amounting to approximately 321 km of republican roads and approximately 622 km of local roads. All rehabilitation will be on existing alignments and will include pavement rehabilitation, improvements to 19 bridges, drainage facilities, and road safety features. When complete, the LLN will ensure that every rural community has essential road access to markets, social services and the main road/interstate network. In addition, funding will be provided to the Armenian Road Directorate (ARD) for a technical audit of the ongoing maintenance contracts and for a road maintenance strategic plan⁴.

B. Irrigated Agriculture Project (IAP)

The IAP addresses the physical, managerial and financial investments needed to generate sustainable increases in rural incomes through irrigated agriculture. These investments will be implemented through two critical activities: (i) the “Infrastructure Activity” and (ii) the “Water-to-Market Activity.”

(i) Under the Infrastructure Activity (IA), the land area under irrigated production will be increased and the overall efficiency of sourcing and water delivery to member farmers will be improved. This will be done selectively by:

- * Rehabilitating infrastructure and equipment for up to 21 regional irrigation schemes, including:
 - o Conversion of part or all of 15 schemes from pump to gravity systems;
 - o Construction or rehabilitation of up to 7 reservoirs;
 - o Rehabilitation of approximately 200 km of main canals;
 - o Renovation and resizing of up to 68 pumping stations; and
 - o Rehabilitation of tertiary canals utilising a 15 percent beneficiary co-investment;
- * Rehabilitating additional tertiary canal systems in up to eight Water User Associations (WUAs), utilising a 15 percent beneficiary co-investment; and
- * Renovating the drainage system serving the Ararat Valley production systems, including renovating open and closed drains, tube wells and artesian wells within 3 sub-regions, while maintaining an optimally balanced ecosystem in the wetlands.

(ii) The Water-to-Market Activity (WTM) will ensure that the Infrastructure Activity is sustained through a combination of training, technical assistance, access to credit and essential equipment. Under the WTM, management capacities within the Water Supply Agency (WSA) and 53 WUAs

⁴ This is not part of the MCA-Armenia Compact funds

will be build and the ability of member farmers to convert the improved water supply to profitable production and pay for water charges will be improved through two sub-activities:

- * Strengthening Irrigation System Entities through:
 - o Supporting organisational reforms and institutional strengthening of the WSA;
 - o Building administrative and operational capacity of the WUAs and the developing networks of WUAs; and
 - o Supporting the establishment of a professional irrigation association.
- * Improving the profitability of WUA member farmers through:
 - o Providing member farmers with access to technology and training in on-farm water management and higher value agricultural production;
 - o Providing training and consulting to individual member farmers, farmer groups and small and medium enterprises on post-harvest, processing and marketing investments; and
 - o Building capacity within credit organisations and provide funding to such credit organisations which will on-lend to member farmers and related enterprises.

1.2 Rationale for Preparation of a Resettlement Policy Framework

MCC funding for activities under the RRRP and IAP is provided subject to the condition that each road section and irrigation scheme must conform (among others) to the World Bank Operational Policy on Involuntary Resettlement (WB OP 4.12). WB OP 4.12 indicates that a Resettlement Policy Framework (RPF) needs to be prepared at appraisal if the extent and location of resettlement cannot be known because the project has multiple components. It is observed in the “Environmental Impact Assessment of the Armenian Proposal to the Millennium Challenge Account (September 2005)” (p. 73) that:

“MCA-Armenian team with great support of MCC team members and consultants has conducted EIA of the MCA-Armenian proposal. For a multi-component project of this type, it would not be expedient or realistic to assess each irrigation scheme and rural road section individually within the given time framework. Instead the team engaged in EIA development has targeted a few “representative” schemes and road areas for field visits with a thorough review and analysis of written documentation on the Proposal components. This approach allowed to identify the most likely range of potential impacts and formulate the most appropriate and reasonable set of mitigation measures. However, unforeseen impacts may arise from certain individual projects. Some of the impacts may also require other and more adapted mitigation measures than the ones described in this report. Therefore, it will be important to adapt/adjust the findings and recommendations of this EIA as needed during project implementation.”

The first batch of feasibility studies that were undertaken related to MCA-Armenia Compact IAP/IA sub components in the last quarter of 2007 indeed identified potential and unforeseen impacts that triggered the preparation of this RPF.

1.3 Objective and Principles of the Resettlement Policy Framework

The objective of this RPF is to guide the preparation of Resettlement Action Plans (RAP) that will ensure that, in the event of any future resettlement issues, all persons affected by it will be compensated at replacement cost at market value for their losses, and provided with rehabilitation

measures so that they are at least as well off as they would have been in the absence of the Program.

The principle is that involuntary resettlement should be avoided where feasible, or minimised, exploring all viable alternatives in project design⁵. If unavoidable, resettlement activities should be conceived and executed as sustainable development Programs, providing sufficient investment resources to enable the person displaced by the project to share in the benefits of the project. Furthermore, displaced persons should be meaningfully consulted and should be involved in planning and implementing resettlement Programs; and 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 Program implementation, whichever is higher. These principles – and resettlement measures stemming from them – apply to both Projects (RRRP and IAP) and all sub-components within these Projects, whether or not the scale, magnitude and complexity of resettlement issues requires preparation of resettlement plans.

1.4 Process for the Preparation and Approval of Resettlement Action Plans

Overview

This RPF guides the preparation of Resettlement Action Plans (RAPs). Project or sub-component specific RAPs, consistent with this RPF, will be submitted to the Governing Council of MCA-Armenia and, subsequently, to MCC for approval after specific planning information becomes available. The Project or sub-component specific RAP or RAPs under this RPF will include baseline census and socio-economic survey information; specific compensation rates and standards; policy entitlements related to any additional impacts identified through the census or survey; description of resettlement sites; Programs for improvement or restoration of livelihoods and standards of living; implementation schedule for resettlement activities; and detailed cost estimates⁶. While executing these tasks, specific attention will be paid to the needs of vulnerable groups among those displaced, especially those below the poverty line, the landless, the disabled, the elderly, women and children, indigenous peoples, ethnic minorities, or other displaced persons who may not be protected through national land compensation legislation.

In these cases the Armenian legislation requires the same level of protection for all groups of the society, including those mentioned as vulnerable groups. This principle is reflected in the Constitution of the Republic of Armenia. In particular, Article 14.1 of the Constitution states: “All the people shall be equal before the law. Discrimination based on sex, race, ethnicity, political or other views, belonging to ethnic minorities, property status, birth, disability, age or other personal or social circumstances is prohibited”.

Article 6 of the Constitution states that the Constitution has superior legal force and its norms shall be applied directly. All the laws and other legal acts shall be in conformity with the Constitution.

Resettlement Action Plans

According to OP 4.12, all projects that entail resettlement require a RAP. The scope and level of

⁵ World Bank Operational Policy on Involuntary Resettlement (WB OP 4.12); January 2002, p.1

⁶ See also later sections of this RPF

detail of the resettlement plan vary with the magnitude and complexity of resettlement, i.e. a full RAP is required whenever land acquisition in a project affects more than 200 people, takes more than 10 percent of any holding, and involves physical relocation of population. An abbreviated RAP is acceptable if fewer than 200 people are displaced. Even if more than 200 people are affected, if all land acquisition is minor (10 percent or less of all holdings is taken) and no physical relocation is involved, an abbreviated RAP is acceptable. If fewer than 200 people are displaced but some physical relocation is involved, the abbreviated RAP is expanded to include a rehabilitation program. An overview is provided in Table 1 below:

Table 1: Subcomponent Categorisation and Resettlement Planning Requirements

Category	No. of Affected People	Resettlement Impact	Planning Requirement
A	200 or more people experience major impacts, defined as <ul style="list-style-type: none"> ▪ Physical displacement and/or ▪ Loss of 10 % or more of their productive assets 	Significant	Full RAP
B	Less than 200 people experience major impacts	Minor	Abbreviated RAP
C	No loss of assets and incomes or displacement	None	No RAP

Full or abbreviated RAPs for projects or sub-components will be developed – as needed – by the ESAOC and be supervised by MCA-Armenia. RAPs will document in detail the implementation arrangements for resettlement, including asset acquisition, compensation, relocation and rehabilitation. A census and inventory of assets, livelihoods and losses of all PAPs will be prepared immediately after the relevant GoA Authorities have publicly announced the cut-off date for PAP identification purposes.

Each completed RAP will be submitted by MCA-Armenia to the Governing Council and MCC to obtain approval prior to commencement of the works. After approval has been obtained, compensation, resettlement and rehabilitation activities will be initiated, and will be completed before awarding contracts of civil works under each Project or sub-component⁷.

Resettlement Screening Process

As indicated in Section 1.2 above, potential and unforeseen impacts were discovered only during implementation of the first batch of Feasibility Studies (FS), commissioned by MCA-Armenia to a Feasibility Study/Final Design Consultant (FS/FD Consultant). The information contained in the draft FS triggered the development of this RPF and a screening process to identify potential resettlement and resettlement effects for each project (or sub component) site was developed and will be applied to each sub component. It includes the following steps:

⁷ Cf. MCC Guidance on the Implementation of Resettlement Activities; MCC – 22 February 2008; Section 3

1. The FS/FD Consultant for the IAP/IA sub component⁸ provides an initial and documented description of the existing baseline situation⁹, in particular related – but not limited – to resettlement, land required for the sub component (either permanent or temporary), and identification and mapping of landownership in the affected area.
2. Once completed, the (final) feasibility studies are reviewed by the MCA-Armenia, the Environmental and Social Assessment and Oversight Consultant (ESAOC) and MCC as needed. Potential impacts are identified and followed up by ESAOC and, when necessary, by MCA-Armenia through visits to those sites where impacts are expected.
3. Site visits include (i) initial discussions with local authorities; (ii) verifying information provided by the FS/FD Consultant; and if required or warranted, (iii) obtaining additional information on the scale and magnitude of the potential impacts;
4. Each sub component thus confirmed to include potential resettlement or resettlement effects is subsequently scheduled for an intensive sensitisation and consultation process to involve the potentially impacted communities.
5. The consultation process is properly documented and the outcome presented to the MCA-Armenia for further processing and eventual approval to proceed (or otherwise) with the specific sub component.
6. If approval to go ahead is obtained and a cut-off date for eligibility declared, PAPs and the local authorities are informed about the impending compensation and resettlement;
7. Subsequently, a PAP census survey – as an integral part of RAP preparation – is undertaken and combined with preparing the inventory of losses to limit the inconvenience for the PAPs and speed up the process of RAP preparation. If required, a baseline survey is simultaneously undertaken¹⁰.
8. Once the results of the survey instruments are compiled and completed, a decision is made whether a RAP (abbreviated or full, as applicable) for that sub component needs to be drafted by ESAOC, or if Due Diligence is sufficient.
9. If RAPs are required, the outlines shown in Annex 5 will be used. Sufficient detail should be provided and the RAPs should be in conformity with (the principles of) this RPF.

1.5 Extent and Scope of Resettlement within the MCA-Armenia Program

A. Rural Roads Rehabilitation Project

In view of the fact that all rehabilitation will be on existing alignments and includes pavement rehabilitation, improvements to bridges, drainage facilities and road safety features only, it is unlikely that substantial – or even minor – adverse social impacts will be induced. Screening of two packages of roads segments proposed for rehabilitation (in total more than 60 segments) that have been completed recently indeed reveal that no major adverse impacts are expected and that “... no land acquisition will occur”¹¹.

⁸ In view of the sequenced implementation of sub components that is being followed, the timing of completion of Feasibility Studies varies for each sub component.

⁹ The screening is defined in each FS/FD Consultant’s contract

¹⁰ See also Annexes 2, 3, 4, and 6; a baseline survey is required if physical relocation of PAPs is unavoidable and/or if some of the PAPs lose more than 10% of their productive assets; cf footnote 6, OP 4.12, Annex A

¹¹ (a) Feasibility Study and Design for the Roads of the RRRP; Package I, Final Environmental and Social Assessment Report; Sweco International, Sep 2007; p 4; (b) Feasibility Study and Design for the Roads of the RRRP; Package II, Draft Final Environmental and Social Assessment Report; Sweco International, 31.01.2008; p 6 (91)

B. Irrigated Agriculture Project

This Project consists of two activities, (i) the Infrastructure Activity and (ii) the Water-to-Market Activity. Adverse social impacts may occur in the Infrastructure Activity, in particular associated with those sub-components that require major activities such as the construction of seven reservoirs, rehabilitation of six main canals and 68 pumping stations, the conversion (from pump to gravity) of 18 irrigation schemes and, possibly, reconstruction of tertiary irrigation infrastructure and the renovation of the drainage system in the Ararat Valley. The Water-to-Market Activity is largely dedicated to training, technical assistance, access to credit and provision of essential equipment. The WTM Activity does not include support or activities that would require land.

2 Institutional and Legal Framework

2.1 Institutional Framework

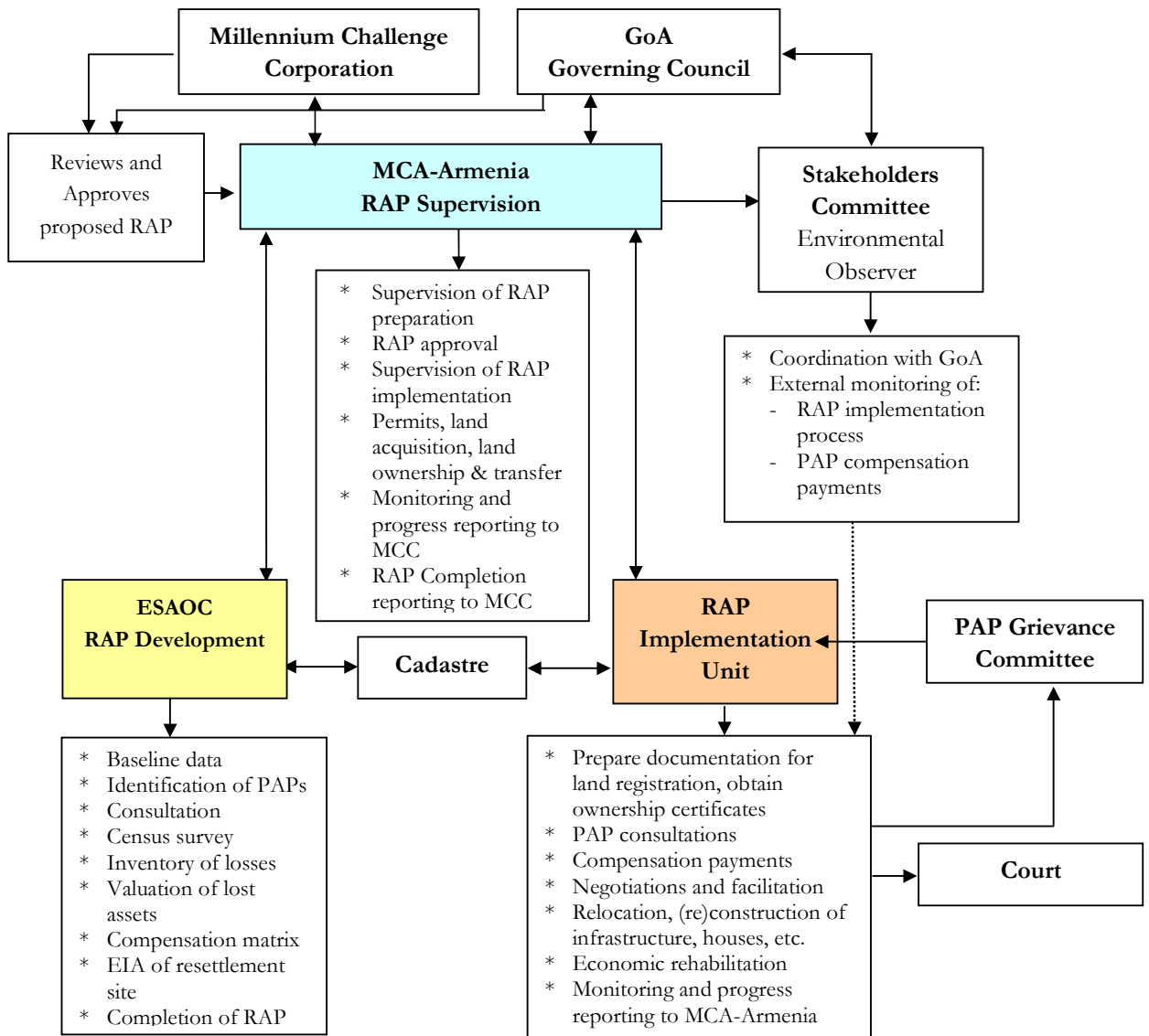
Several institutions, each with different roles and responsibilities, will be responsible for adhering to the principles and objectives of the RPF while developing and implementing subsequent RAPs¹². Most, if not all, institutions that play a role in resettlement and resettlement issues associated with the implementation of the Compact are listed below. A diagram showing the key actors only, including their roles and interrelationships, is also included below in this section.

Overview

MCA-Armenia bears overall responsibility for oversight and monitoring of all activities under this RPF. MCA-Armenia will guide, supervise and report on progress in the Projects and sub-components, and will handle resettlement issues requiring action and coordination at the central government level. MCA-Armenia has overall control and management of the resettlement budget.

¹² See also section 5 below

Overview of key actors in resettlement and resettlement issues



Other agencies that MCA-Armenia will associate and coordinate with in the context of resettlement issues include, but may not be limited to, those listed below ¹³. Selected functions of the selected agencies that may pertain to resettlement-related issues are presented¹⁴.

¹³ The list of relevant agencies is presented in accordance with the GoA decision No 26 from January 14, 2002 on defining of state authorized bodies of land resources in accordance to Article 2 of the Land Code of Armenia, and updated from the official web-site of the Government of Armenia: www.gov.am

* **National level:**

o **Ministry of Territorial Administration of RoA (MoTA);**

The MoTA has the following roles and responsibilities, among others, that may pertain to resettlement-related issues:

- Development and enforcement of policy provisions for territorial administration, laws, programs and plans for social-economic development of territorial administrations and local self-governments through the bodies of territorial administration and local self-governments;
- Management and safe and secure use of the state owned water infrastructure;
- Development and implementation of investment policy for water infrastructure, organisation of expertise of the investment policy;
- Development and coordination of implementation of the policy on state regulation of migration processes;
- Formation and management of the state mobilization reserves, etc.

The MoTA, state authorized body in this area, will have, but not limited to the following role in the RAP process:

- participation in the RAP preparation and implementation process within its jurisdiction of the state authorized body in resettlement activities;
- member of the Stakeholder Committee;
- member of the Grievance Redress Committee if appropriate; etc.

o **Ministry of Agriculture of RoA (MoA)**

The MoA has the following goals and objectives:

- Development and implementation of economic development policies of the GoA in the agricultural production sector;
- Ensuring sustainable development of agriculture and increased efficiency of the agricultural processes;
- Development and implementation of the basic principles, concepts and projects of agrarian and investment policies; participation in the development and implementation of food safety policies; policies for effective use and preservation of agricultural lands; etc.

The MoA might be consulted in the process of estimating compensation for lost crops.

o **Ministry of Nature Protection of RoA (MoNP)**

The MoNP is responsible, among others, for protection and conservation of all natural resources through:

- Development, management and implementation of the state policy on effective management use, and protection of atmospheric air, water, land and mineral resource, mitigation and prevention of adverse negative impacts on flora and fauna, specially

¹⁴ At the time of preparing this Resettlement Framework Policy the Charters of some agencies were in the process of revision and amendment, to reflect the structural changes that took place in the Government in spring 2008.

protected areas;

- Development and enforcement of environmental legislation, including, but not limited to environmental norms and standards, permits and associated fees and charges, etc.

The MoNP might be consulted in the process of preparation of the EIA of the RAP. The EIA of the RAP will need approval of the MNP.

o **State Committee of the Real Property Cadastre under the GoA (Cadastre)**

The Cadastre has the following roles and responsibilities, among others, that may pertain to resettlement related issues:

- Development and implementation of the state policy on the unified national cadastre of the real property (including land),
- Within its jurisdiction, development of the principles of land resources management and use policy, implementation of the state supervision of the land use to support the establishment of land rights institution and land market,
- Development of cadastral maps, including for lands,
- Creation and maintenance of the real property information system and provision of cadastral data,
- State registration of the real property rights
- Development of the land balance of the RoA Land fund and lands classification by types;
- Cadastral valuation of the real estate, including lands;
- Setting of the base tax for the real property, including land tax
- Setting of the initial price for private land; etc.

The State Committee of the Real Property Cadastre has its regional subdivisions and closely works with bodies of local self-governance. The Cadastre will be consulted in the process of development of the RAP, specifically in relation to identification and validation of the PAPs assets and property rights, assessment of losses.

Ministries presented below may be consulted in the process of RAP preparation and implementation, depending on the type of project a RAP must be developed for:

- o **Ministry of Energy and Natural Resources of RoA¹⁵ (MoENR)** is, among others, responsible for policy development for establishment of limitations and norms for land use for energy infrastructure and their protection zones. At the time of preparing this framework policy the functions of this newly restructured ministry for natural resources were not clear

- o **Ministry of Transport and Communication**, among others, develops the policy on limitations and norms for land use for roads and communication lines and their protection zones.

¹⁵ At the time of preparing this framework policy the functions of this newly restructured ministry for natural resources were not clear.

- o **Ministry of Health of RoA**, is, among others, responsible for development and enforcement of policy principles of sanitary protection zones of land use for different purposes.
- o **Ministry of Culture of RoA**, among others develops the principles, parameters, norms for inventory, protection, use of historical and cultural monuments, as well as approve the designs and protection regime of protection zones of cultural and historical monuments.
- o **Ministry of Emergency Situations of the RoA (MoES)**
This newly established Ministry does not have an approved charter at the moment of preparing this policy framework.
- o **Ministry of Urban Development of RoA (MoUD)**, among other functions, develops the policy provisions on establishment of urban development limitations and norms for use and development of certain types of land defined in accordance with the Land Code requirements.

* **Regional and Marz level:**

A summary of the role of local self-governing bodies in regulation of land relations is as follows:

- Development of basic settlement plans and implementing land zoning and use mechanisms within the administrative territory of the community, According to defined procedures,
 - According to basic settlement plans, within the administrative territory of the community and according to defined procedures, provide and take away land belonging to the community and the State due to the Law on Property
 - Dispose the land belonging to the community due to the Law on Property, according to defined procedures
 - Implement:
 - Contiguous registration of the land
 - Charges of land taxes and rent for the use of community land
 - Control over use of the land and maintenance of the restrictions on use
 - Other authorities defined by the law
 - Support:
 - State registration of the land
 - Provision of protection of the land allocated to administrative territories of the communities
 - Performance of nature protection and historical-cultural norms and implementation of measures directed to that
 - Implementation of Republican and regional plans of the mechanisms for the utilization of forestland.
- o **State authorities in Marzes (Marzpetarans)** implement the government's regional policies in the following areas: finance, urban development, housing and utilities, transport

and road construction, agriculture and land use, education, healthcare, social security, culture and sports, nature and environmental protection, commerce, public catering, and services. The regional policies in the aforementioned sectors are implemented by means of Marzpetarans, as well as organizations subordinate to the respective Marzes.

Representatives of the Marzpetarans may be involved in the Grievance Redress Committee and consulted in the process of preparation and implementation of the RAP as the regional state authorities for regulation of land relations.

* **Village level:**

- o **Village Mayors and Village Councils** will be consulted for and actively involved in the preparation and execution of resettlement processes in their area of jurisdiction. They might be consulted and involved as mediators in the processes of redressing the complaints/grievances, before those are deposited with the Grievance Redress Committee.

Funds for the resettlement Program will be provided by MCA-Armenia from Compact funds and MCA-Armenia will monitor and supervise the implementation of land acquisition and resettlement activities in the Projects and sub-components falling within their jurisdiction.

Based on the advice of the ESAOC, MCA-Armenia will carry out the resettlement activities within the areas of its responsibility. ESAOC will be in charge of preparing the RAP, including PAP identification, census and socio-economic surveys, dissemination of Project and sub-component information to PAPs, *etc.* If and when necessary ESAOC will provide oversight and advisory services to assist MCA-Armenia in the implementation of RAP.

2.2 Legal Framework

Republic of Armenia

In the Republic of Armenia the legal framework for land takings and resettlement issues mainly consist of the following legal acts:

1. The Constitution of the Republic of Armenia (*adopted in 1995 amended in 2005*),
2. The Civil Code of the Republic of Armenia (*adopted on 05.05.1998, entered into force from 01.01.1999, published in Official Bulletin No 1998/17 on 10.08.1998*),
3. The Law on Alienation of Property for the Needs of Society and State (*adopted on 27.11.2006, entered into force from 30.12.2006, published in Official Bulletin No 2006/64 on 20.12.2006*),
4. The Land Code of the Republic of Armenia (*adopted on 02.05.2001, entered into force from 15.06.2001, published in Official Bulletin No 2001/17 on 15.06.2001*),
5. The Law on Real Estate Valuation Activity (*adopted on 04.10.2005, entered into force from 26.11.2005, published in Official Bulletin No 2005/71 on 16.11.2005*),
6. The Code of Civil Procedure (*adopted on 17.06.1998, entered into force from 01.01.1999, published in Official Bulletin No 1998/20 on 09.09.1998*),
7. The Code of Administrative Procedure (*adopted on 28.11.2007, entered into force from 01.01.2008, published in Official Bulletin No 2007/64 on 19.12.2007*),

The Constitution

Article 8 of the Constitution of the Republic of Armenia (hereinafter referred to as the Constitution) generally acknowledges that the right to property (ownership right) is recognized and protected in the Republic of Armenia. Article 31 of the Constitution states that the property can be alienated for social and state needs only in case of exceptional priority public interest, in accordance with the procedure set by the law and on the basis of appropriate compensation. In this context special attention shall be paid to Article 1 of Protocol 1 of the European Convention of Human Rights, stating that “Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided by law and by general principles of international law”.

The Civil and Land Codes

Though the process of land/property takings are mainly governed by the law mentioned above there is a separate group of issues that may arise during the implementation of the project related to the right of limited use of the other’s property. These issues are addressed in the Civil and Land Codes of the Republic of Armenia.

Article 210 of the Civil Code (as well as Article 50 of the Land Code) states that the owners/users of a land plot can demand from the owner of the land plot neighbouring with theirs and/or from the owners of other land plots to grant the right of limited use of their land plots (*servitude*). A servitude may be established to provide for walking and riding through the neighbouring land parcel, installation and exploitation of lines of electric transmission, communication and pipelines, provision of water supply and melioration. The servitude can be voluntary or compulsory, if the agreement on servitude is not reached between the parties. Article 212 (3) of the Civil Code stipulates that for preservation and maintenance of pipelines, engineering infrastructures established to serve the public needs, a compulsory permanent free of charge servitude shall be established.

The Law on Alienation of Property for the Needs of Society and State

The most important legal act dealing with the issues of land/property takings and resettlement issues is the Law on Alienation of Property for the Needs of Society and State (the Law). The Law stipulates the cases when the alienation of the property needs to be executed and the procedure how the alienation should be conducted.

Article 3 of the Law stipulates the exceptional public interest as the constitutional basis for the alienation and sets the following requirements for execution of the alienation in question: (i) alienation in accordance with the procedure set by the law, and (ii) prior payment of appropriate compensation against the property to be alienated.

Article 4 of the Law sets the principals/conditions in accordance to which the exceptional priority public interest should be determined. Thus, the Law stipulates that (i) the public interest must be superior over the interests of the owner of the property, (ii) the effective implementation of the public interest cannot be achieved without the alienation of the property, (iii) the alienation of the property must not do unjustified harm to the owner of the property, (iv) the public interest must be

acknowledged as superior through the Government decision, (v) the fact of existence of the exceptional public interest may be argued through litigation in the court .

The same article states that exceptional public interest shall serve the following purposes: (a) protection of public and state security, (b) implementation of the obligations assumed by the Republic of Armenia under international treaties, (c) preservation of historical and cultural values or monuments of international and national importance, and creation and preservation of special protected nature areas, (d) protection of the environment, (e) development of education, healthcare, sport as well as science and culture, (f) implementation of projects of community and intercommunity importance in the fields of communication, transport, energy, land use, city construction, energy and water supply, (g) protection of the property, health and private life of citizens, (h) prevention and/or mitigation/reduction of the possible effects of emergencies.

The Law also regulates the issues related to the determination of the scope of the property under alienation. In particular, Article 5 of the Law stipulates that, in case of alienation of a land parcel, all the items of real estate (buildings and other property) as well as all the improvements on the land parcel are also subject to alienation. In case of alienation of a building, the land plot necessary for the usage of the property is also subject to alienation. If a part of a property is alienated, then the non-alienated part(s) of the property should also be alienated at the demand of the owner. Such a demand should be presented within two months after the decision of the Government on acknowledgement of the exceptional public interest enters into force.

In this respect it should also be noted, that the *European Court of Human Rights* has well-established case-law concerning the interpretation of the notion of “possessions” (ownership, property) used in Article 1 of Protocol 1 of the European Convention which is highly desirable to take into consideration while determining the scopes of the property to be alienated. The following illustrate are of interest here.

Case of Bronionski v. Poland, point 129: “The concept of “possessions” in the first part of Article 1 of Protocol 1 has an autonomous meaning which is not limited to the ownership of material goods and is independent from the formal classification in domestic law. In the same way as material goods, certain other rights and interests constituting assets can also be regarded as “property rights”, and thus as ‘possessions’ for the purposes of this provision. In each case the issue that needs to be examined is whether the circumstances of the case, considered as a whole conferred on the applicant title to a substantive interest protected by Article 1 of Protocol 1” ,

Case of Kopechky v. Slovakia, point 25: “The Court recalls that according to the case-law, “possessions” within the meaning of Article 1 of Protocol 1 can be “existing possessions ” or assets, including claims, in respect of which applicant can argue that he or she has at least “legitimate expectations” of obtaining effective enjoyment of a property right”.

The Law furthermore stipulates that the state, a community and/or an organization can act as the acquirers of the property being alienated for public and state needs.

Article 7 of the Law states that the restrictions arising from the resolution of the Government on

acknowledging the exceptional superior public interest shall be registered in accordance with the procedure set by the law within 15 days upon entering into force of the resolution of the Government. The resolution is sent to the owners of the property and other persons having registered property rights in that property within 7 days after the subject Government resolution enters into force. The Government resolution shall be published in the Official Bulletin of the Republic of Armenia and in mass media being published in not less than 3000 copies and can be appealed in the court within one month from the day it enters into force.

The same article also stipulates that, after the Government resolution enters into force, the protocol (census) on the description of the property should be prepared by the authorized governmental authority whereas the owner and the persons having property rights over the property subject to alienation are entitled to take part in the preparation. The copy of the census is sent to the owner and to the parties having property rights over the property within 3 days after it is completed. The census can be challenged/appealed before the government authorized body or the court within 10 days after they receive the copy.

The Law recognizes also the option to conduct preliminary study of the property subject to alienation (which includes also the preparation of census) **before** the adoption by the Government of the resolution mentioned above at the request of the potential acquirer. The preliminary study is conducted based on the resolution of the Government.

Article 10 of the Law states that the acquirer/purchaser of the property shall, before the final date of starting the alienation of property for public and state needs set by the Government, send to the owners and other persons having property rights over the property the draft of the agreement of alienation of the property. The owners of the property are obliged to inform the acquirer/purchaser within two weeks from the date of receipt of the agreement on the persons having property rights over the property who have not registered their rights or are not subject to registration. If the owner does not inform the acquirer about the mentioned persons then he/she bears the liability for the losses of those persons arising out of the alienation without their participation.

Article 11 of the Law stipulates that equal compensation shall be paid to the owner against the property to be alienated whereas the price exceeding the market price by 15 per cent shall be deemed to be equal compensation for the purposes of the Law. The market price of the real property and/or property rights over the property shall be determined in accordance with the procedure set by the Law of the Republic of Armenia on Activity of Real Estate Valuation. In this context, it should be mentioned that the Real Estate Valuation Law (Article 8) states that the valuation of the real estate is mandatory in the cases of alienation of the property for social/public and state needs, whereas the valuation is to be conducted by licensed valuers/appraisers based on the agreement. The results of valuation are reflected in the valuation statement, which shall, *inter alia*, include (i) the names of real estate valuation subjects, their addresses, (ii) the date when the real estate was visited and valued, (iii) the reference of application of three classical methods of valuation to valuation standard, (iv) the rights and restrictions over the property valued, (v) the data about valued real estate, the source of their authenticity, (vi) the result of on-site examination of the property and the description of the property valued, (vii) the calculations of market prices received as a result of application of three classical valuation methods and their reconciliation, (viii)

the terms of commercial secrecy of the results of real estate valuation, (ix) the analysis of the most efficient use of the property, if the customer requests so, (x) the list of documents used in the process of valuation, (xi) the liability of the valuator before the customer and third parties, (xii) the full name and signature of valuator and his/her license number.

The Law also stipulates that the persons having property rights over the property under alienation are compensated from the amount of the compensation paid against the property being alienated. As per articles 12 of the Law, if no agreement on alienation of the property is signed between the acquirer and the owners/persons having property rights over the property within three months after sending the draft alienation agreement to them, the acquirer must deposit the compensation amount with the notary public or the court, whereas the amount of compensation shall be calculated as of not more than one week prior of the date when the deposit is made. If the amount of deposit is received by the owners and/or persons having property rights before the court's decision on alienation of the property, the agreement of alienation is deemed to be made.

Article 13 of the Law provides that if no agreement on alienation is signed within 7 days after the acquirer deposits the amount of compensation, then, for the alienation of the property, the acquirer must resort to the court within one month. In this case only the issue on the size of the compensation amount can be the matter for discussion. The court's decision on the amount of compensation shall be the basis for alienation of the property.

The law also provides for the grounds when the resolution of the Government on acknowledging the superior public interest will become void. In particular, Article 16 states that if the acquirer does not send the draft alienation agreement to the owner and/or persons having property rights, or does not deposit the amount of compensation with the notary public or court within the time set by the Law, or does not resort to the court within the time period set by the Law then it will be construed as waiver from the right to acquire the property and all the documents on recognizing the superior public interest related to that item of property shall be deemed void. The mentioned resolution may be recognized as void by the court if the acquirer, *inter alia*, have not started the activity serving as a basis for property alienation for two years from the enactment of the resolution.

Another group of issues which are relevant to the resettlement project is the one connected with the procedure of application to the court should PAPs decide to choose the court for settlement of disputes arising out in the process of resettlement. In this respect it should be noted that the Law contains also several provisions setting "limitation of actions" i.e. time periods for being entitled to challenge/appeal some issues before or in the courts. Thus, the Law stipulates that the resolution of the Government on acknowledging the superior public interest can be challenged before the court within one month and the resolution of the Government on conducting preliminary study within two months after their enactment.

These resolutions shall be challenged/argued in the Administrative Court of the Republic of Armenia in accordance with the requirements of *the Code of Administrative Procedure*. As per Article 3 an individual or a legal entity shall be entitled to resort to the Administrative Court, if the actions and/or inactions and administrative acts of state or municipal bodies or their officials have violated or will violate his rights and freedoms guaranteed by the Constitution of the Republic of Armenia,

international treaties, laws and other legal acts. In the meantime, it should be noted that the Code does not set a time frame for the proceedings in the Administrative Court. Article 81 states that the court proceedings shall as a rule be completed in one session, without delays. The preparation to court proceedings and the proceeding itself shall be completed within a reasonable period of time. Along with the above-mentioned, the Code of Administrative Procedure provides for simplified/accelerated proceedings in several cases, among which the most applicable in our case are the following: (i) when the presented claim is evidently well-substantiated or (ii) when the presented claim is evidently groundless. The decision of the Administrative Court enters into force from the moment it is publicized.

The case is a bit different when the case goes to court in the cases provided by article 13 of the Law (the signing of alienation agreement by resort to court). These cases are heard by the court of General jurisdiction if the amount of compensation in dispute is less than AMD 5 mln and by the Civil court if it is equal to or exceeds AMD 5 mln. The proceedings in court are conducted as per the requirements of the Code of Civil Procedure of the Republic of Armenia. As in the previous case, the Code of Civil Procedure also does not stipulate any strict time limits for case hearings and set that the case should be heard in the court within a reasonable time period (Article 111). Here also the court may use accelerated hearings. Article 125 of the Civil Procedure Code stipulates that the court is entitled to use accelerated hearings if (i) the nature of the case requires immediate hearing; (ii) the claim is evidently substantiated; (iii) the claim is evidently groundless.

The decisions of the courts of general jurisdiction and the Civil court enter into force after one month and can be appealed to the Appeal Court for Civil Cases. In its turn, the Appeal Court also is not bound by strict time-frames and shall hear the case within reasonable period taking into consideration the time period when the case was heard by the General jurisdiction/Civil court. The decision of the Appeal Court enters into force from the moments it is publicized.

World Bank

The primary objective of the World Bank's OP 4.12 is to explore all alternatives to avoid, or at least minimise, involuntary resettlement. Where resettlement is unavoidable, the living standards of displaced persons should be restored or improved relative to those conditions that prevailed prior to the Program. The policy applies to the taking of land and other assets when land acquisition results in the loss of shelter, the loss of all or part of productive assets, or access to them, and the loss of income sources or other means of livelihood.

2.3 Comparison of Armenian Laws and the World Bank's Involuntary Resettlement Policy

Table 2: Comparison of Armenian Laws and the World Bank's Involuntary Resettlement Policy

Legislation of the Republic of Armenia	WB Involuntary Resettlement Policy	Conclusion on gaps	Actions to address the gaps
1. Eligibility			
<p>a) Persons having documented ownership over the property (land, buildings, crops, etc.) are eligible to receive compensation for the land being alienated, damages/ demolition and lost crops caused by a project (the Law on Property Alienation for Social/Public and State Needs), or in the cases their lands are not alienated but partially used for public projects (servitude) (the Civil Code (Articles 210-218), Land Code (Articles 50-and 100)),</p> <p>b) Persons enjoying other property rights over the property (right to lease, right to free use, etc) are eligible for compensation, whereas the amount of compensation for these persons is included and paid from the compensation paid to titled owners, (the Law on Property Alienation for Social/Public and State Needs (Article 11)). Persons having constructed buildings on their own lands but not registered them as of the cut-off date may receive compensation. (Article 188 of the Civil Code).</p> <p>c) Persons having built a construction or planted trees in areas belonging to others can not receive compensation for loss of assets. (Cf above mentioned RoA laws)</p>	<p>a) Persons who have formal legal rights to land (including customary and traditional rights recognised under the laws of the country) are provided compensation for the land they loose;</p> <p>b) Persons who do not have formal legal rights to land but have a claim to such land or assets – provided that such claims are recognised under the laws of the country or become recognised through a process identified in the resettlement plan – are provided compensation for the land they loose;</p> <p>c) Persons who have no recognisable legal right or claim to the land they are occupying are provided resettlement assistance in lieu of compensation for the land they occupy, and other assistance as necessary, if they occupy the project area prior to the cut-off date.</p>	<p>In general the provisions of the Armenian legislation and WB's OP are the same, except of provision on persons lacking the formal legal right over the property.</p>	<p>To address this gap it is recommended:</p> <p>1) WB OP 4.12 is followed,</p> <p>2) The Government of Armenia allows the application of WB OP 4.12 to the MCA-Armenia Program. (as it is enforced by the Compact).</p>

Legislation of the Republic of Armenia	WB Involuntary Resettlement Policy	Conclusion on gaps	Actions to address the gaps
2. Entitlements			
<p>As per Armenian legislation the compensation is paid only to the owners and persons having the property rights over the assets if the ownership/property rights has been acquired before the project cut-off date, whereas all the improvements done after the cut-off date in excess of the scope set by the law and all the encumbrances generated over the property after the cut-off date are not subject to compensation.</p>	<p>PAPs are provided resettlement assistance 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</p>	<p>Provisions of the Armenian legislation and WB's OP are the same.</p>	
<p>The adequate compensation should be paid to the owner in case of alienation, whereas the amount of compensation exceeding the market value for 15% will be considered as adequate (The Law on Alienation of the Property for Social/Public and State Needs Article 11)</p>	<p>Compensation levels should be sufficient to replace the lost land and other assets at full replacement cost in local markets.</p>	<p>Both Armenian legislation and WB OP 4.12 provide for compensation of lost land and assets. National legislation appears to be more beneficial for the PAPs.</p>	
<p>No provision for income/livelihood rehabilitation measures and/or allowances for severely affected PAPs and vulnerable groups, and/or resettlement expenses (Cf above mentioned RoA laws)</p>	<p>The WB policy requires rehabilitation for income/livelihood, for severe losses, and for expenses incurred by any and all PAPs during the relocation process</p>	<p>Armenian legislation provides very limited provisions for income/livelihood compensation and/or expenses incurred by the PAPs during the relocation process.</p>	<p>To address this gap it is recommended:</p> <ol style="list-style-type: none"> 1) WB OP 4.12 is followed, 2) The Government of Armenia allows the application of WB OP 4.12 to the MCA-Armenia Program (as it is enforced by the Compact).

Legislation of the Republic of Armenia	WB Involuntary Resettlement Policy	Conclusion on gaps	Actions to address the gaps
3. Information Requirements			
<p>The resolution of the Government on acknowledgment of exceptional superior public interest is to be properly communicated to the owners and persons having property rights over the assets within seven days after it enters into force. The owner and the persons having property rights over the property to be alienated are entitled to participate in completing the description of the property to be alienated. The copy of the protocol on description is to be sent to the owner and the persons having property rights over the property. (The Law on Alienation of the Property for Social/Public and State Needs Article 7)</p> <p>Local municipalities are required to acknowledge the communities through mass media and public discussions on expected changes in their living environment (Government Resolution No 660 dated 28 October 1998).</p>	<p>Information related to quantification and costing of land, structures and other assets, entitlements, and amounts of compensation and financial assistance are to be disclosed in full to the affected persons.</p>	<p>Requirements of the Armenian legislation and the WB OP 4.12 are almost the same.</p>	

2.4 Conclusions: Bridging the Gaps

In principle, Armenian laws and regulations relevant to land acquisition and resettlement and WB OP 4.12 adhere not only to the objective of compensation for affected families or persons, but also to the objective of rehabilitation. However, Armenian laws are unclear on how rehabilitation is to be achieved and in practice the provision of rehabilitation is left to ad hoc arrangements taken by the local governments and the specific project proponents. Another and rather major difference between the RoA laws and the WB is that OP 4.12 recognises titled and non-titled owners as well as registered and unregistered tenants, i.e. lack of legal title is no bar to compensation and rehabilitation. To clarify these issues and reconcile eventual gaps between the Armenian laws and regulations and OP 4.12, this RPF mandates¹⁶ compensation at full replacement cost of all items,

¹⁶ It should be noted that the measures proposed require approval both by the Governing Council and MCC.

including the rehabilitation of informal/non-titled settlers, and rehabilitation packages (as appropriate, to be determined in the RAP) for PAPs that may need to be relocated, suffer business losses, or may be severely affected¹⁷.

Furthermore, public disclosure and consultation are not well articulated in the RoA laws and the project will ensure due inclusion of (potential) PAPs and, in particular, of vulnerable groups affected by the project, in the public consultation and participation process prior to and during project implementation (see also section 6 below). In addition, an accessible grievance redress mechanism will be instituted (see also section 5.2 below) and physical project implementation works will not commence until all compensation and rehabilitation measures of a project or sub component are completed.

3 Eligibility and Entitlements

3.1 Eligibility

The basic principle followed in this RPF is that PAPs should be assisted in their efforts to improve their former living standards, income earning capacity, and production levels, or at least to restore them to pre-Program level whereby lack of legal title does not exclude individuals from the eligibility to receive compensation and/or rehabilitation assistance.

PAPs eligible for compensation will include those who have formal legal rights to land or other assets, and those who initially do not have formal legal rights to land or other assets but have a claim to legal rights based upon the laws of the country; upon the possession of documents such as land tax receipts and residence certificates; or upon the permission of local authorities to occupy or use the project affected plots. The genesis of these rights may come from continued possession of public land where the government has not sought their eviction. Affected items could include, but may not be limited to, the following:

- * Permanently or temporarily affected land;
- * Houses or other structures, crops, trees, or other assets;
- * Business and production; and/or,
- * Suffered income losses as a result of the Project.

The WB's OP 4.12 recognises that individuals and households who occupy project-affected areas after the cut-off date are not eligible for compensation. The cut-off date will be publicly announced by the relevant GoA Authorities and the census of PAPs will commence immediately following this announcement. All people moving into the project area and/or people conducting construction works, planting trees, etc. after the cut-off date are non-eligible PAPs and thus will not receive any compensation. Advance notice will be given, requesting them to vacate their premises and dismantle affected structures prior to project implementation. To facilitate this, the Program will put at their disposal the necessary transportation means for their relocation.

¹⁷ For a global overview of entitlements see section 3 below and Annex 1 attached

3.2 Entitlements

Land acquisition and resettlement will be implemented according to a compensation and entitlements framework in line with both RoA laws and regulations and WB OP 4.12. During compensation identification at Project or sub-component preparation, the entitlement matrix and description of compensation entitlements¹⁸ shall be revised and updated accordingly.

The entitlement matrix is based on the premise that resettlement, rehabilitation and compensation programs should improve or, at a minimum, maintain the PAPs' pre-Program living standards and ensure their participation in Program benefits. This is reflected in the following principles of compensation:

Eligibility

- * All PAPs living in the Project area before the cut-off date may be considered for compensation for their losses and/or rehabilitation assistance. Lack of legal rights or titles do not make them ineligible for entitlements;

Compensation

- * PAPs will be compensated at full replacement and substitution costs without depreciation, and relocated or resettled in and after due consultation with them. The preliminary compensation rates for replacement and substitution cost will be proposed to the PAPs to give them an opportunity to compare those with the prevailing market rates;
- * All fees and taxes on land and/or house transfers will be waived or otherwise fees and taxes will be included in a compensation package for land and/or house. The competent government authorities will give preferential treatment to PAPs reconstructing their houses on their own, and to obtain the necessary property titles and official certificates;

Resettlement strategies

- * Preference will be given to land-based resettlement strategies for PAPs whose livelihoods are land-based. These strategies may include resettlement on public land 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 PAPs, or the provision of land would adversely affect the sustainability of a park or protected area, or sufficient land is not available at a reasonable price¹⁹, 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.

Cash compensation

- * 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 fraction²⁰ of the affected asset and the residual is economically viable; (b) active markets for land, housing, and labour exist, PAPs use

¹⁸ A provisional entitlements matrix is included in **Annex 1**.

¹⁹ The lack of adequate land will be demonstrated and documented to the satisfaction of the MCC

²⁰ As a general principle, this applies if the land taken constitutes less than 20% of the total productive area; see also WB OP 4.12, point 12, footnote 17.

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, calculated as of the cut-off date.

- * Compensation in cash for all residential, commercial or other structures will be paid at replacement cost of these structures, without any depreciation of the structure and without deduction for salvageable materials;

Consultation and Planning

- * Resettlement plans will be developed and implemented in consultation with the PAPs. In the relocation area, community infrastructure and services will be built and improved, so that the PAPs will have access to these services.
- * Effective and timely design, planning and implementation of resettlement and rehabilitation measures will be conducted to avoid unnecessary delays and consequent inconveniences to the PAPs.

Relocation

- * PAPs will be provided full assistance for transportation of personal belongings, household inventory and salvaged material, and will be given a relocation allowance in addition to the compensation at replacement cost of their houses, lands and other properties.
- * In cases where community infrastructure such as schools, factories, water sources, roads, sewage systems, electrical supply, or other community resources such as a woodlot or pasture is lost, this will be replaced at no cost to the community.

Timing

- * Resettlement, compensation and rehabilitation Programs for PAPs will be timed so as to guarantee the availability of new land and residences, prior to commencement of project or sub component related construction activities;
- * Land clearance will not be started before the PAPs have received compensation and rehabilitation assistance.

Monitoring

- * Institutional arrangements will be made for internal and external monitoring of all important resettlement activities^{2/}.

3.3 Valuing Affected Assets

During RAP preparation, the ESAOC will engage the services of a competent and acknowledged independent assessor, responsible for determining replacement cost of affected properties and assets. During the valuation process, PAPs, local officials and relevant government offices (such as the Cadastre) will be consulted. Subsequently, compensation and rehabilitation measures will be developed by ESAOC based on the valuations thus established. The following guiding principles for the valuation will be taken into account:

Replacement valuation

With regard to land and structures, the replacement value is defined as follows:

^{2/} For further details see section 5.1.3 below

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- (i) For agricultural land, it is the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes.
 - (ii) For land in urban areas, it is the pre-displacement market value of land of equal size and use, with similar or improved public infrastructure facilities and services and located in the vicinity of the affected land, plus the cost of any registration and transfer taxes.
 - (iii) For houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labour and contractors' fees, plus the cost of any registration and transfer taxes.

In determining the replacement cost to be compensated to the PAP, depreciation of the asset and the value of salvage materials are not taken into account, nor is the value of benefits to be derived from the project deducted from the valuation of an affected asset. Where domestic law does not meet the standard of compensation at full replacement cost, World Bank guidelines and technical specifications for compensation at replacement cost will be applied.

Compensation for land, structures, business, fixed improvements and other temporary assets will be based on market valuation, productivity valuation, negotiated settlements, material and labour valuation, disposition of salvage materials and other fees paid. It should be noted that lack of title, license or permit is not a bar to compensation.

Rehabilitation cost

In addition to compensation for lost assets, PAPs will be entitled to transitional assistance which include moving expenses, temporary residence (if necessary), employment training and income support while awaiting employment and should have an option for full compensation if duration of impact is to exceed two years. These losses will be estimated for each individual case and may vary from (temporary or permanent) loss of business opportunities to loss of crops, orchards, trees, and other items.

In relation to 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 will be made to establish access to equivalent and culturally acceptable resources and earning opportunities.

4 RAP Information Requirements

4.1 Census and Inventory of Project Affected Persons

Soon after the completion of feasibility studies, a cut-off date will be publicly announced and, where applicable, a census of families and persons adversely affected by the Project or sub-component will be undertaken. The census will include a complete inventory of all losses to be

incurred by each PAP. This information will include as a minimum: (a) number of persons, main occupation and level of income; (b) number, type, and dimension of the houses; (c) number, quality, and area of all the residential plots; (d) number, category, type, and area of agricultural land held and to be lost by each PAP; (e) tenure status of agricultural land and amount of rent paid by tenant/lessee, where applicable; (e) quantity, category, and dimension of all rent of other fixed assets adversely affected; (g) productive assets lost as a percentage of total productive assets; (h) temporary damage to productive assets; (i) quantity, category, and quality of non-agricultural livelihood adversely affected; (j) quantity, type, and quality of community resources to be acquired²².

4.2 Identification of Losses

If the Projects or sub-components involve physical relocation of PAPs, or provision of replacement land, data will be collected on the location, area, type, and category of the replacement land available for residential and/or agricultural purposes. Care will be taken to ensure that the relocation site or replacement land is in the vicinity of the PAPs' previous location to avoid social dislocation and unrealistic division of the PAPs' economic livelihood²³.

4.3 Baseline Survey

In addition to the census and inventory of affected properties, sub-projects requiring physical relocation of PAPs may include a baseline survey of the affected population as part of the RAP²⁴. The baseline survey will provide data on the existing social structure, tenure arrangements and resource use, access to common property resources, social services and infrastructure facilities by different social groups in the project area, and for the host population at the proposed resettlement site (if relevant), clearly identifying all special interest groups, particularly those who are poor and vulnerable (e.g. tenants, landless labourers, and female-headed households), and describing their special characteristics in relation to the project²⁵.

5 Implementation Arrangements

5.1 RAP Development and Approval Process

RAPs, as needed, will be developed by the ESAOC, supervised by MCA-Armenia. RAP preparation will commence immediately after a cut-off date has been declared and main activities to be undertaken include – but may not be limited to – the following:

- * Identification of and consultation with PAPs;
- * Census survey and inventory of losses of PAPs;
- * Valuation of lost assets
- * Development of compensation matrix;
- * Preparation of indicative budget for implementation;

²² See also (i) **Annex 2: Checklist for Census Information**; and (ii) **Annex 3: List of Data for Census Survey**

²³ See also **Annex 4: List of Data for Inventory of Losses**

²⁴ If a full RAP is required, a baseline survey is mandatory. For an abbreviated RAP a baseline survey is undertaken if physical relocation of PAPs is unavoidable and/or if some of the PAPs lose more than 10% of their productive assets; cf. footnote 6, OP 4.12, Annex A

²⁵ See also **Annex 6: Data for Baseline Survey**

-
- * As appropriate, EIA of (proposed) resettlement sites;

The final RAP will be submitted by the MCA-Armenia to the Governing Council and MCC for approval.

5.2 RAP Implementation Process

RAP Implementation Unit

Under the supervision of the MCA-Armenia, a RAP Implementation Unit (RIU) will be established to implement approved RAPs. MCA-Armenia may act as the RIU or MCA-Armenia can contract an outside organization to act as the RIU under MCA-Armenia's direct supervision. All activities indicated in the RAP shall be covered from Compact funds and be completed prior to commencing the construction activities.

Major responsibilities and activities of the RIU include – but may not be limited to – the following:

- * Verify the RAP census and asset inventory data on the demarcated parcel;
- * Undertake cadastral and topographic surveys and ensure correction of data of measuring and inventory as required by possible design changes;
- * Closely consult with PAPS and Village leaders;
- * Prepare documentation for registration of new land plots;
- * Provide the public with necessary information;
- * Negotiations and agreement with PAPS;
- * Delivery of compensation and, as needed, implementation and supervision of rehabilitation measures. Cash compensations will be paid by cheque.
- * Observe grievance procedures;
- * Court processing of cases where no agreement is reached;
- * Expropriation proceedings through the court, as required;
- * Construction of infrastructure (in case resettlement is necessary) and arrangement of relocation of PAPS;
- * Prepare quarterly reports, structured in conformity with the categorisation of PAPS as indicated in MCCs Guidance on the Implementation of Resettlement Activities of February 2008, section 4;
- * Satisfactory completion of the RAP is a condition for any (physical) works on the sub-component to start. To this end, a PAP satisfaction survey will be conducted by the RIU towards the end of the implementation of the RAP, the results of which will be compiled and, together with other relevant documentation – such as the final PAP categorisation indicated in section 5 of the MCC Guidance Note – submitted to MCA-Armenia and MCC to satisfy the CP and to obtain a no-objection for the sub component's (physical) implementation.

Land Acquisition Procedure

The acquisition procedure for private land requires the pursuance of five basic sequential activities, as follows:

- * Establishment of land ownership by the PAP.
- * Registration of the affected parcels to legitimize ownership.
- * Undertaking of Land Purchase Agreement between the concerned PAP and the MCA-Armenia;
- * Demarcation and Registration of parcels to be alienated

* Payment of Compensation

Complaints and Grievances

Grievance Redress Committee: Tasks and composition

A Grievance Redress Committee at Program level will be established to address complaints and grievances pertaining to resettlement and to pre-empt all disagreements being referred to the court. The Committee will include MCA-Armenia staff, a representative of the (national level) Stakeholder Committee and/or Marzpetaran in the project area and representatives of the local NGO and communities affected by the Project or sub component.

Procedure

Under the supervision of the MCA-Armenia, the RIU will make every effort to achieve an amicable settlement of all identified resettlement issues under the RAP at the Project or sub component level. If this attempt fails, the PAP may at his/her discretion, deposit a complaint either with the court or Grievance Redress Committee. The proposed redress procedure and mechanisms will be presented to and discussed with the PAPs at the early stages of the RAP preparation process. In order to effectively collect all grievances from the potential PAPs, a specific site(s) may be designated for timely depositing and collection of all complaints. The PAPs can deposit complains orally (these shall be properly documented at the moment of depositing complain at the designated site) or in written. The response will be provided within a period of two weeks after receiving the complaint. If the case is not resolved at the level of the Grievance Redress Committee, it may be submitted by either party to the Court. Any fees required for this purpose will be paid by MCA-Armenia after verifying that the PAP is a recipient of allowances under the Family Assistance Program of the GoA²⁶. All other PAPs will be responsible for their own costs.

Expropriation Proceedings

If the RIU and the PAP fail to reach an agreement on the acquisition of private properties, the MCA-Armenia will pursue the expropriation proceedings in accordance with the RoA "Law on Property alienation for social/public and state needs (nr HO-185-N of 27 November 2006)".

Court

The Court of Armenia shall be the last resort for issues and concerns regarding the implementation of the RAP. In case of failure in the negotiation between the MCA-Armenia and the PAP concerning the acquisition of private properties, the MCA-Armenia with the mandate for expropriation based on existing legislations will submit to the Court a request for expropriation. Upon its approval and following prescribed procedures, the MCA-Armenia will take over the concerned property after having been given the right of Expropriator by the Court.

In cases where complaints and grievances regarding the RAP implementation and compensation are not amicably settled and mediation by the Grievance Redress Committee remains also unsuccessful, the PAP will also have the right to appeal the case to the Court as a last resort. The Courts' decision shall be final and be executed.

²⁶ Based on a number of (wealth and income) indicators, this Program assists to varying degrees families that are not in a position to fully or partially cater for their daily necessities.

As per the Law on Alienation of Property for Social/Public and State Needs (Article 13) the acquirer shall be obliged to resort to the Court if the alienation agreement is not signed voluntarily by the owner and/or persons enjoying property rights over the property subject to alienation, whereas only the issues connected to the amount of compensation can be discussed in the court. Hence, PAPs cannot argue the amount of compensation in the courts on their own initiative. If they do not agree with the amount suggested, they do not sign the alienation agreement, in which case the acquirer should go to court, if he still wants the property to be alienated.

5.3 Supervision and Monitoring

Resettlement activities in all Projects and sub-components will be regularly supervised and monitored by personnel of MCA-Armenia. Reporting on internal monitoring will be carried out quarterly by MCA-Armenia and at the end of each RAP completion, a RAP completion report will be submitted to MCC. Internal monitoring and supervision will:

- (a) verify that the census of all PAPs has been carried out;
- (b) that the RAP and baseline survey (as appropriate) has been prepared for Projects or sub components where it is required;
- (c) that property valuation and resettlement has been carried out in accordance with the provisions of this RPF and the respective RAP;
- (d) oversee that all resettlement measures are implemented as approved;
- (e) ensure that funds for implementing resettlement activities are provided in a timely manner, are sufficient for their purposes, and are spent in accordance with the provisions of this RPF and the respective RAP.

The GoA and MCC will perform external monitoring from time to time. In addition to verifying the reports generated by internal monitoring, external monitoring will:

- (a) evaluate the social and economic impact of resettlement on the PAPs;
- (b) verify if the objective of enhancement or at least restoration of income levels and standards of living of the PAPs has been met; and
- (c) as needed, provide suggestions for improvement of resettlement implementation to ensure achievement of the principles and objectives set forth in this RPF and respective RAPs.

5.4 Stakeholder Committee

A Stakeholder Committee will be established by the MCA-Armenia at the national level, which will provide coordination with the GoA and the PAPs in the processes of preparation and implementation of the RAPs. The Committee will also externally monitor the processes of implementation of the RAP by the RIU, particularly payments of compensation to the PAPs and economic rehabilitation of the PAPs.

The membership of the Stakeholder Committee, depending on the scope and magnitude of the resettlement, may vary and include the representatives of the MoTA; local and regional state authorities; local NGOs and other civil society groups, etc., and MCA.

An environmental observer will be involved in the Committee to ensure the compliance with environmental requirements.

6 People's Participation

As indicated in the above sections, PAPs will participate throughout the development and implementation process of resettlement activities and in the land acquisition process. They will be consulted by the ESAOC and the RIU and will be invited to participate in public meetings held by ESAOC/MCA-Armenia in the early stages of the process, as indicated above. The PAPs will be provided with reliable information on the project, its impacts and the proposed mitigation strategies and economic rehabilitation activities. The information made public and provided to each affected household will also include cut-off dates for each sub-project, eligibility criteria and entitlements, modalities of compensation, complaints and grievance redress procedures. The affected parties will be provided with an opportunity of presenting their ideas and suggestions as inputs into the planning and implementation of the resettlement activities. These will be achieved through a series of participatory exercises and focused discussions with the PAPs, thus ensuring that the affected parties have a stake in the outcomes of the process.

PAPs may be also involved in the committees to be established, which will ensure their participation in the decision-making process in various stages of the RAP process: preparation and implementation.

After completion of each RAP, a brief survey will be undertaken by the RIU amongst PAPs to assess their satisfaction with the process and results of the RAP. Lessons learned from these surveys will be incorporated in subsequent RAPs.

7 Costs and Budgets

Based on the finalised RAPs, MCA-Armenia will submit to the GC and MCC detailed cost of resettlement, with a breakdown by agricultural land, residential land, houses, other assets, and livelihood to be affected. The cost estimates will make adequate provision for monitoring and supervision and for contingencies. All costs for resettlement will be funded through Compact funds.

Annexes

Annex 1: Provisional Entitlement and Compensation Matrix

Type of loss	Specification	Affected people ²⁷	Entitlements	
1. Permanent loss of agricultural land, including cultivable land and uncultivable wasteland (such as pastures, woodlots, etc)	All land losses, irrespective of severity of impact	Farmer/title holder	<ul style="list-style-type: none"> * Land for land compensation with plots of equal value and productivity to the plots lost; or; * Cash compensation for affected land at replacement cost free of taxes, registration, and transfer. * Residual portions of plots affected by the required ROW which are reduced to less than 400m2 or rendered unusable by alterations in access, irrigation, or workability will be included in the affected land and compensated as indicated above. 	
		Leaseholder (registered or not)	* Renewal of lease in other plots of equal value/productivity of plots lost, or cash equivalent to market value of gross yield of affected land for the remaining lease years (up to a maximum of 10 years).	
		Share-croppers (registered or not)	* Cash compensation equal to the market value of the lost harvest share and rehabilitation assistance as appropriate (to be determined in the specific RAP)	
		Agricultural workers losing their contract	* Cash indemnity corresponding to their salary in cash and kind for the remaining part of the agricultural year and rehabilitation assistance as appropriate (to be determined in the specific RAP)	
		Non-titled landowners	* One rehabilitation allowance equal to market value of one net harvest (in addition to crop compensation) for land use loss; additional rehabilitation assistance as appropriate (to be determined in the specific RAP)	
	Additional provisions for severe impacts (> 10% of land loss)	Farmer/title holder & Leaseholder (registered or not)	* One severe impact allowance equal to market value of one net harvest of the affected land for one year (inclusive of winter and summer crop and additional to standard crop compensation and rehabilitation assistance, as appropriate)	
		Share-croppers (registered or not)	* One severe impact allowance equal to market value of share of harvest lost (additional to standard crop compensation and rehabilitation assistance, as appropriate)	
		Non-titled landowners	* One severe impact allowance equal to market value of net harvest of the affected land for one year (additional to standard crop compensation and rehabilitation assistance, as appropriate)	
	2. Temporary loss of land		All PAPs (including non-titled landowners)	<ul style="list-style-type: none"> * Affected land & communal infrastructure will be restored to pre-project conditions. * Rent shall be agreed between landowner and Contractor equal to the revenue lost based on market value (example: compensation for harvests lost at average yield/hectare) * Cash compensation for assets lost (example: structures, trees)

²⁷ Identified at cut-off date

Type of loss	Specification	Affected people ²⁸	Entitlements
3. Residential/ commercial land		Titleholder	* Land for land compensation through provision of a plot comparable in value/location to plot lost; or * Cash compensation for affected land at full replacement cost free of taxes, registration, and transfer costs
		Tenant/ Leaseholder	* Maximum of three months allowance to find replacement
		Non-titled landowner	* Provision of a free or leased plot in a Government resettlement area or a self-relocation allowance.
4. Houses, building and structures		All relevant PAPs (with or without house or building registration)	* Cash compensation at replacement rates for affected structure and other fixed assets free of salvageable materials, depreciation and transaction costs. In case of partial impacts full cash assistance to restore remaining structure. The cost of lost water and electricity connections will be included in the compensation.
5. Crops	Crops affected/lost	All PAPs (including non-titled landowners)	* Crop compensation in cash at full market rate for one year gross harvest by default to be paid both to landowners and tenants based on their specific sharecropping agreements; additional rehabilitation assistance as appropriate (to be determined in the specific RAP)
6. Trees	Trees affected/lost	All PAPs (including non-titled landowners)	* Cash compensation shall reflect income replacement. Fruit trees will be valued at gross market value of one year income x number of years needed to grow trees of the same productivity.
7. Business/ Employment	Temporary loss of business or employment	All PAPs (including non-titled landowners)	* Business owner: Cash compensation for the period of business interruption, based on tax declaration or official minimum salary * Worker/employee: Indemnity for lost wages for the full period of business interruption
	Permanent loss of business or employment	All PAPs (including non-titled landowners)	* Business owner: Cash compensation equal to one year income (based on tax declaration or official minimum salary) and rehabilitation assistance as appropriate (to be determined in the specific RAP) * Worker/employee: 3 months indemnity for lost wages and rehabilitation assistance as appropriate (to be determined in the specific RAP)
8. Livelihoods	Loss of social support systems	All PAPs (including non-titled landowners)	* Restoration of livelihoods must be to levels at least equivalent to those maintained at the time of dispossession, displacement, or restricted access. * If replacements to losses are unavailable, strategies can include skill development, wage employment or self-employment, including access to credit.
9. Relocation	Transport and transitional livelihood costs	All PAPs affected by Relocation	* Provision of cash compensation to cover transport expenses and livelihood expenses-due to relocation; time period to be determined in the RAP
10. House tenants		Tenants who have leased a house	* Provision of a cash grant of three months rent at the prevailing market rate in the area and will be assisted in identifying alternative accommodation
11. Community assets			* Rehabilitation/substitution of the affected structures/utilities (i.e. places of worship, footbridges, roads, schools, health centres, pastures, woodlots, etc.) to pre-project functions

²⁸ Identified at cut-off date

Type of loss	Specification	Affected people ²⁹	Entitlements
12. Vulnerable people's livelihood		PAP below poverty line	* Priority for employment in project-related jobs, training opportunities, self-employment and wage-employment assistance; * Rehabilitation assistance package to be determined based on a cases by case analysis

²⁹ Identified at cut-off date

Annex 2: Checklist for Census Information

Persons:

- * Aggregate number of individuals and households in each affected category;
- * Age, gender, occupation of every individual.

Property:

Personal property including details of ownership of

- * structures: houses, farm buildings, shops, industrial structures, grain drying area, latrines;
- * land and type: irrigated or non irrigated, woodlots, grassland, wasteland, etc.;
- * description and estimate of the value of standing crops on land;
- * other: livestock, wells, trees.

Public and common property:

- * land: village common lands, gathering and foraging areas, fishing areas, etc.;
- * structures and facilities: schools, health facilities, burial grounds, temples, community centres, public transport, banks, co-ops;
- * infrastructure: drinking and other water systems, access and internal roads, electricity and other power sources;

PAP incomes from other sources, including:

- * farm-based income;
- * off-farm labour;
- * informal sector activities.

Annex 3: List of Data for Census Survey

1. Background Information

- (a) Questionnaire code and date of survey
- (b) Name of interviewer
- (c) Name of province, district and village/hamlet

2. Household Census

- (a) Name of household head and all household members
- (b) Relationship of household members to the household head
- (c) Age and sex of each household member
- (d) Information on ethnicity
- (e) Education level of each member
- (f) Primary occupation and monthly income of each member
- (g) Incomes from secondary sources for each member
- (h) Location of job or businesses as the case may be
- (i) Length of stay on present location

3. Tenure Status

- (a) Category of land
- (b) Type of land ownership and the name of the owner/HH member
- (c) Type of document possessed to certify ownership type
- (d) If not owned, name and address of owner
- (e) If informal use right, type of agreement
- (f) Number of years used
- (g) Rent per month paid by tenant
- (h) Deposits made by lessee

Note: In case census and inventory are conducted as separate exercises, some information on land use, affected structures and other fixed assets, and affected businesses should also be collected as part of census surveys.

Annex 4: List of Data for Inventory of Losses

1. Land Use

- a. Existing use of land
- b. Areas under different land usages, where applicable
- c. Total and affected area of land with breakdown by usages, if applicable
- d. Estimate whether the remaining area is viable for continued use
- e. Total area of land by type for compensation purposes

2. Structures

- a. Type of structure
- b. Number of floors
- c. Area by floor
- d. Name of owner of structure
- e. Year of construction
- f. Whether permit obtained for structure
- g. Use of structure and areas by usages, if applicable
- h. Description of building material used for roof, walls and floors by surface areas
- i. Type of foundation
- j. Description of any special features of structure
- k. Utility connections (electric meter, water supply, etc.)
- l. Charges paid for utility connections
- m. Affected area of structure
- n. Estimate whether the remaining structure is viable for continued use
- o. Total area of building for compensation purposes

3. Other Structures

- a. Types of structures (wells, boundary wall, fence, warehouse, etc.)
- b. Area of fish pond affected
- c. Average household income from fish pond
- d. Description of areas and construction material of affected structures
- e. Use of other structures

4. Agricultural Products

- a. Type of crops affected
- b. Owner of affected crops
- c. Total yearly production of crop on affected land
- d. Average yield of crop
- e. Any products that are sold at the market
- f. Number of employees/labour used for crop production
- g. Average value of crop
- h. Average yearly household income from agriculture

5. Trees

- a. Number and types of affected trees
- b. Age of trees
- c. Name of owner of trees
- d. Average yield of fruit bearing trees
- e. Average yearly income from fruit trees

6. Business

- a. Type of business affected
- b. Name of owner of business
- c. Registration/permit number of business (check document)
- d. Total yearly household income from business
- e. Average operating expenditure of business
- f. Number of employees in business
- g. Number of permanent and temporary employees
- h. Average income and profit as reported for income tax (check document)
- i. Whether the business needs to be relocated

7. Affected Public Utilities and Facilities

- a. Description of affected community infrastructure
- b. Description of affected facilities by area & building material used
- c. Estimated number of population adversely affected by the facilities/infrastructure

8. Preference for Relocation

- a. Whether there is a need for relocation or reorganization
- b. Preferred mode of compensation (cash or kind) for land
- c. Preferred mode of compensation for structure
- d. Preferred type of assistance for income rehabilitation

Annex 5: Formats for RAP and Abbreviated RAP

Full RAP	Abbreviated RAP
<p>Includes a statement of objectives, policies and principles, and typically covers the following:</p> <ol style="list-style-type: none"> 1. Description of the project; 2. Project resettlement potential impacts; 3. Objectives; 4. Socio-economic studies; 5. Legal framework; 6. Eligibility; 7. Valuation of and compensation for losses; 8. Site selection, site preparation and relocation; 9. Housing, infrastructure and social services; 10. Organisational responsibilities; 11. Public participation, consultation and grievance mechanism; 12. Implementation schedule; 13. Cost estimate and budget; 14. Monitoring and Evaluation 	<p>Covers the following minimum elements³⁰:</p> <ol style="list-style-type: none"> 1. A census survey of displaced persons and valuation of assets; 2. Description of compensation and other resettlement assistance to be provided; 3. Consultations with displaced people about acceptable alternatives; 4. Institutional responsibility for implementation and procedures for grievance redress; 5. Arrangements for monitoring and implementation; and 6. A timetable and budget.

³⁰ In case some of the displaced persons lose more than 10% of their productive assets or require physical relocation, the plan also covers a socio-economic baseline survey and income restoration measures.

Annex 6: Data for Baseline Survey

Note: The background information, household status and land use information would be same as in ANNEX 4 above: List of Data for Census Survey

Additional information would include the following:

1. Access to Facilities

- a. Access to electricity
- b. Type of water supply available
- c. Type of sanitation facilities within the building
- d. Distance to school
- e. Distance to health facilities
- f. Distance to market

2. Household Assets

- a. Type and number of farm equipment and implements owned by the household
- b. Type of other business equipment owned by household
- c. Estimated value of affected equipments
- d. Type of transport owned (bike, motorcycle, truck, animal cart, car, other)
- e. Major kitchen equipments owned (stove, cooker, etc.)
- f. Ownership of fridge, radio, TV, etc.
- g. General condition of building (excellent, good, average, poor)
- h. General condition of household furnishing (furniture, cupboards, etc.)

3. Household Income and Expenditure

- a. Average annual household income from all sources
- b. Average expenditure on major items: food, transport, health, education
- c. Any loans taken from bank, friends or relatives
- d. Approximate savings, if any

4. Skills Possessed

- a. Skills of each household member
- b. Types of training or skills preferred for further upgrading

Annex 7: Guidelines for Valuation and Compensation of Property

Introduction

As noted above (see Section 3.3), there are two components that comprise the valuation of property for Project Affected Persons (PAPs). The first of these is the Replacement Cost for property owned, or used for productive purposes by the PAP. The second is a one time payment of Compensation to the PAP which is defined as an amount (in financial terms) above the current replacement cost, used to compensate the impacted person for inconvenience, time loss due to change in residence or location, additional inputs required to bring the new location to a productive level equivalent to the property replaced, loss of income during the process of relocating, and similar losses.

Required are practical guidelines for estimating costs for resettlement activities under the Irrigated Agriculture Project in Armenia. It should be restated at the outset that the discussion below is not a fixed framework, but a set of negotiable guidelines and suggestions. While some flexibility is built into the Guidelines, they will result in different values and compensation arrangements in different parts of the country. Depending on the nature of the project and its impacts, resettlement payments may be required for all of the landholdings of some farmers, or for only a few hectares depending on the scope and nature of physical impacts. The point is that each case will be different; each case will require local consultation with impacted stakeholders. Considerable time and effort are usually needed to achieve satisfactory results.

Valuing the Land

In a free market economy, the value of land—agricultural as well as urban—is determined by the price it is bought or sold in the real estate market. There is little or no active market for agricultural land in Armenia. At present Armenia falls somewhere in between having a limited land market, since much of the agricultural land has been privatized, and there are cadastral surveys and land use descriptions, and other countries where there is no land market (i.e., where agricultural land is used collectively). In spite of land being privatized and cadastral surveys having been undertaken to allow appraisal, there are negligible land sales. Very few landowners buy and sell their landholdings over time. Landowners do have a mental picture of what they believe their land is worth. Gaining closure on this estimate of value by the landowner is the objective of the following Guidelines. It allows the Project to provide other land as replacement and compensation to generate a satisfactory solution to both parties.

Land has been classified by the Armenian Cadastral Centre which allows us to rank different land plots according to various contingent values in terms of whether a particular plot is arable or not arable, has access to irrigated water or not, is easily accessible or remote, more or less productive, and several other market dimensions. Any number of cadastral indicators might be used to categorize plots of land. For purposes of these guidelines five classes of agricultural land are demarcated using various indicators in order to rank them in order of preference (to potential buyers if there was a land market).

Calculating the Value of Land

For example, ranging from Class 1 land (the least preferred) to Class 5 land (the most preferred), land might be classified according to the following indicators:

- Class 1 Lands—poor soils, remote from the village, no irrigation
- Class 2 Lands—relatively good arable soils, but far from the village, no irrigation
- Class 3 Lands—good arable soils, irrigated, moderate drainage, also useful for pasture
- Class 4 Lands—good arable soils, good irrigation and drainage, useful for pasture, moderate distance from the village
- Class 5 Lands—excellent soils, useful for HV crops, good irrigation and drainage, useful for pasture, near village, nearby road access

For a given area subject to expropriation for project purposes, it is first necessary to determine the relative percentages of different classes of land in the proposed expropriated area. Assume a reservoir area, requiring expropriation of lands covering 200 ha, in which the land has been classified roughly as follows:

- Class 1—20% 20 ha
- Class 2—10% 60 ha
- Class 3—40% 80 ha
- Class 4—30% 20 ha
- Class 5—10% 40 ha

It is quickly apparent that this is a potentially highly productive area with 80% of the land (140 ha) classified as good arable land.

The first question to ask is whether there is alternative area nearby, where the proposed reservoir might be located on land that is not as productive. In some instances, moving slightly upstream or downstream along a water course can significantly lower the costs of compensation and resettlement.

Using sample data from the Martuni Region, the price per ha of agricultural land ranges from 51,100 Dram minimal upwards to 2,850,000 maximum, we can assume relative land values roughly doubling in value for each distinct class of land. Some suggested values are as follows:

- Class 1 land values might range from 50,000 – 100,000 Dram/ha
- Class 2 land values might range from 100,000 – 350,000 Dram/ha
- Class 3 land values might range from 350,000 – 1,000,000 Dram/ha
- Class 4 land values might range from 1,000,000 – 1,750,000 Dram/ha
- Class 5 land values might range from 1,750,000 – 2,850,000 Dram/ha

The range of land values will need to be empirically ascertained through field level surveys, and local survey assessments among the actual stakeholders. Cadastral surveys and tax records can also be used to provide more accuracy about the range of land values.

Nevertheless, using our assumed land values, we can estimate a maximum and a minimum budget for replacement cost to expropriate 200 ha for a reservoir area, as follows:

	Minimum (000's)	Maximum (000's)
40 ha Class 1 land 50,000-100,000 Dram/ha	2,000	4,000
20 ha Class 2 land 100,000-350,000 Dram/ha	2,000	7,000
80 ha Class 3 land 350,000-1,000,000 Dram/ha	28,000	80,000
60 ha Class 4 land 1,000,000-1,750,000 Dram/ha	60,000	105,000
20 ha Class 5 land 1,750,000-1,850,000 Dram/ha	35,000	37,000
Estimated valuation for land replacement (Dram 000's)	<u>127,000</u>	<u>233,000</u>

Maximum replacement cost for our assumed worst case scenario is about US\$777,400 for 200 ha of expropriated land. Minimum replacement cost is estimated at US\$423,000 for 200 ha.

In addition, financial compensation may be required for other losses incurred by PAPs as described in this RPF. Determination of compensation is made difficult since public funds would be required for direct payments to private individuals. Most government agencies avoid this practice so as to avoid appearances of impropriety, lack of transparency or corruption.

Annex 8: Documents Consulted

1. Republic of Armenia: Constitution (1995, amended in 2005)
2. Republic of Armenia: the Civil Code (1998)
3. Republic of Armenia: Land Code (2001)
4. Republic of Armenia: Law on Property alienation for social/public and state needs (2006)
5. Republic of Armenia: Code of Civil Procedure (1998,
6. Republic of Armenia: Code of Administrative Procedure (2007)
7. Republic of Armenia: Law on Real Estate Valuation Activity (2005)
8. World Bank: Environmental Assessment Sourcebook, Volume I: Policies, Procedures and Cross-Sectoral Issues (1991; fourth printing - 1996)
9. World Bank: Environmental Assessment Sourcebook, Volume II: Sectoral Guidelines (1991; fourth printing - 1996)
10. Roads and the Environment: A Handbook; Ch. 12. Impacts Arising from Land Acquisition and Resettlement (2000)
11. World Bank: Operational Policy on Involuntary Resettlement (WB OP 4.12) (January 2002);
12. World Bank: Operational Policy on Involuntary Resettlement - Annex A to OP 4.12 (January 2002);
13. World Bank: Bank Procedure (BP) 4.12 (January 2002);
14. World Bank: Involuntary Resettlement Sourcebook and Appendices (2004);
15. Resettlement Framework, Armenia Water Supply and Sanitation Sector Project; State Committee for Water Systems under the Republic of Armenia, Ministry of Territorial Administration – Revised: 22 August 2007
16. Planning for Resettlement: Best Practices; MCC (undated – 2007?)
17. Feasibility Study and Design for the Roads of the RRRP; Package I, Final Environmental and Social Assessment Report; Sweco International, Sep 2007;
18. Notes on Involuntary Resettlement (Draft); ESAOC, 28.01.2008
19. Feasibility Study and Design for the Roads of the RRRP; Package II, Draft Final Environmental and Social Assessment Report; Sweco International, 31.01.2008;
20. MCC Guidance on the Implementation of Resettlement Activities; MCC – 22 February 2008
21. MCC Comments of 27 March 2008 on MCA-Armenia’s Preliminary Draft Resettlement Policy Framework of 06 February 2008