MINISTRY OF ENVIRONMENT AND TOURISM
REPUBLIC OF NAMIBIA

INTEGRATED COMMUNITY-BASED ECOSYSTEM MANAGEMENT PROJECT (ICEMA)

NAMIBIA

RESETTLEMENT POLICY FRAMEWORK (RPF)

VOLUME 3

January 15, 2004

Volume 1: Environmental and Social Assessment (ESA)
Volume 2: Indigenous Peoples Development Plan (IPDP)
Volume 3: Resettlement Policy Framework (RPF)
**Note:** The Ministry of Environment and Tourism (MET) is conscious of the requirement for a resettlement policy framework as part of the Environmental Safeguard procedures required by the World Bank. MET considers this document to be a useful component of the ICEMA project. MET recognizes that it is based on, and conforms to global requirements and practices of the World Bank, and must therefore accommodate worst-case scenarios. MET notes, however, that the ICEMA project's site-specific interventions will be based on community consent, or on demand expressed by a community. Project interventions will be designed to avoid land acquisition or restrict access to the use of resources. However, in the event that such impacts are unavoidable, the RPF will be implemented.
TABLE OF CONTENTS

Glossary of Key Terms ................................................. 4

A. Introduction ...................................................... 5

B. Principles and objectives governing resettlement preparation and implementation. 10

C. A description of the process for preparing and approving Resettlement plans. 13

D. Land acquisition and likely categories of impact. 18

E. Eligibility criteria for defining various categories of project affected persons. 21

F. A legal Framework reviewing the fit between the laws of Namibia and regulations and Bank policy requirements and measures to bridge any gaps proposed between them. 22

G. Methods of valuing affected assets. 31

H. Organizational procedures for the delivery of entitlements, including, for projects involving private sector intermediaries, the responsibilities of the financial intermediary, the government, and the private developer. 38

I. A description of the implementation process, linking resettlement implementation to civil works. 39

J. A description of the grievance redress mechanisms. 40

K. A description of the arrangements for funding resettlement, including the preparation and review of cost estimates, the flow of funds, and contingency arrangements. 41

L. A description of mechanisms for consultations with, and participation of, displaced persons in planning, implementation, and monitoring. 43

M. Arrangements for monitoring by the implementation agency and, if required, by independent monitors. 44

Annex A: Template for Preparing RAPs. 47
Glossary of Key Terms

- **Cut-off Date** – refers to a day on and beyond which any person who occupies land required for project use, will not be eligible for compensation. The date is often the day when the assessment of persons and their property in the project area commences.

- **Environmental and Social Management Framework (ESMF)** - report is a safeguards instrument (document) which establishes a mechanism to determine and assess future potential environmental and social impacts of sub projects within a conservancy area, and then to set out mitigation, monitoring and institutional measures to be taken during design, implementation and operation of the project activities to eliminate adverse environmental and social impacts, offset them, or reduce them to acceptable levels. This instrument has been prepared as a separate and stand alone document to be used in conjunction with the RPF.

- **Market rate** – based on commercial terms according to Namibia law for sale of land, materials, agricultural products and other assets and commodities.

- **Project Affected Person(s) (PAPs)** – are persons affected by the land use or acquisition needs of the management committees sub project activities that lead to these person(s) being required either to be physically displaced or relocated due to loss of shelter and or, lose, denied or restricted access and or to economic assets, or lose income sources or means of livelihood, whether or not the person(s) must move to another location.

- **Resettlement and Compensation Plan (RAP)**, is also known as a Resettlement Action Plan or Resettlement Plan – is a resettlement instrument (document) to be prepared when project activities are identified, that require land acquisition that leads to physical displacement of persons, and/or loss of shelter, and/or loss of livelihoods and/or loss, denial or restriction of access to economic resources. RAPs are prepared by the party impacting people and livelihoods in this manner and contains specific and legal binding requirements to be taken by that party to resettle and compensate the affected party before project activities causing this adverse impact are implemented. The RAP must be accepted by the Project authorities and the World Bank before the subproject can be included in the grant program of the Bank (including GEF).

- **Resettlement Policy Framework (RPF)**, is also a resettlement instrument (this document) that is prepared by the borrower in this case by the Government of the Republic of Namibia when project activities that require land acquisition that leads to physical displacement of persons, and/or loss of shelter, and/or loss of livelihoods and/or loss, denial or restriction of access to economic resources, are not identified at the project preparation stage. The RPF is therefore prepared and disclosed before the proposed project is appraised setting out the resettlement and compensation principles, organizational arrangements and design criteria to be applied to meet the needs of the people who may be affected by the project, when project activities are identified. The RAP is prepared consistent with the provisions of the RPF.

---

1 The term ‘borrower’ is a generic term used by the World Bank, and includes grant recipients, such as the Ministry of Environment and Tourism in the case of the ICEMA project.
A. INTRODUCTION

1. Since independence from South Africa in 1990, Namibia has embarked on a number of policy and legislative reforms to meet the development needs of all its people. The natural resources sector in general and the wildlife and tourism sector in particular, have undergone major changes.

2. In 1992, Namibia’s Green Plan (GRN 1994a) was drafted by the newly created Ministry of Environment and Tourism (MET) and presented at the United Nations Conference on Environment and Development. This document identified and analyzed the main environmental challenges facing Namibia and specified actions required to address them.

3. Following on from the Green Plan, the MET formulated Namibia’s 12-point plan for Integrated and Sustainable Environmental Management, ISEMP, (GRN 1994b), a strategic plan that set out the most important areas that needed to be developed to place Namibia on a sustainable development path.

4. Subsequently, in pursuance of implementing the ISEMP, the MET began implementing its National Community-Based Natural Resource Management (CBNRM) Program. The CBNRM Program in Namibia is based on an initial policy and legal framework which grants rights over wildlife and tourism management and uses to communities on their lands once they are organized as conservancies.

5. Conservancies are multiple-use zones with legal status, registered with the MET, where residents currently continue to farm but collectively manage wildlife in order to benefit both from natural resource management practice, and from capturing tourism revenues. A communal conservancy consists in setting aside part or all of the land of a given community with the intention to conserve and valorize wildlife through its sustainable consumptive and non-consumptive uses within ecosystem-related activities.

6. This proposed project, Integrated Community-Based Ecosystem Management Project, ICEMA, is part of the Government of Namibia's efforts to implement this strategy and action plan and to address national and global environmental priorities.

7. The project development objective is to promote community-based integrated ecosystem management that accrue socio-economic benefits, to conservancies. The project global development objective is to restore, secure and enhance key ecosystem processes in conservancies that increase the prospects to improve significantly the conservation of globally important biodiversity and to reduce land degradation in the country as a whole.

8. The project is structured to achieve these objectives into 4 inter-related components that together serve to consolidate, add value to and build on the previous achievements of the National CBNRM Program. It will foster the shift from traditional natural resource management (mainly wildlife) to an integrated ecosystem management approach in targeted conservancies thereby enhancing globally significant biodiversity conservation and reducing land degradation while at the same time providing increased income-generating activities. ICEMA will support targeted conservancies on communal lands complying with MET’s and ICEMA’s defined strategic criteria.
9. The project components are:

**Component 1: Ecosystem-based Income-Generating Activities**
This component is concerned with the sustainable use of natural resources and ecosystem services through provision of funds to communities for barrier removal to ecosystem-based income-generating activities that generate equitable benefits to conservancy members. There are two sub-components in component 1 which are:

Sub Component 1a: Community-Funding Facility (CFF):
The sub-component focuses on the delivery of sub-projects (micro-projects) to eligible registered conservancies. CFF funded activities will target a diversity of aspects related to wildlife, tourism, forestry, and multi-sector (e.g. non-timber forest products (NTFP) with emphasis on community ownership.

Sub Component 1b: Capacity-Building and Technical Assistance:
This sub component provides for the development and dissemination of a CCF kit for conservancies as well as technical assistance to review and up-date the CFF manual over the project’s lifetime.

**Component 2: Sustainable Ecosystem Management**
This component is concerned with restoring, securing and enhancing the biodiversity and ecosystem processes that support sustainable benefits to local communities. There are three sub-components in component 2 which are:

Sub Component 2a: CBIEM Planning:
The sub-component will support the development of 15 integrated conservancy management plans in targeted registered and emerging conservancies that will guide resource based management activities.

Sub Component 2b: CBIEM Implementation:
This sub-component focus on the implementation of site-specific key prioritized activities for ecosystem restoration, wildlife translocation and other ecosystem management activities as outlined in the CBIEM plan.

Sub Component 2c: CBIEM Monitoring and Evaluation:
This sub-component will focus on
(a) designing an adaptive and comprehensive CBIEM M&E methodology (socio-economic and environmental) for local level users and uses;
(b) implementing M&E through support for data collection (tracker; aerial surveys, GIS) at local and central level;
(c) providing training for local and central level stakeholders on M&E development and use.

**Component 3: Targeted Institutional Support**
The component aims to improve the MET's strategic planning, implementation, monitoring and replication capacity to promote, develop and implement the National CBNRM Program and policies in Namibia over the longer term. It will also provide institutional and operational support to selected conservancies. There are three sub-components in component 3 which are:

Sub Component 3a: Policy and Organizational Review and Development:
Sub-component 3b: Direct conservancy operational support (providing financial support for equipment and running costs as well as limited training and workshop budget for conservancy management needs).

Sub Component 3c: Knowledge Management;

**Component 4: Project Management Support**

The component aims to provide MET with the additional increased operational ability to manage and supervise ICEMA activities. French ICEMA co-funding to this component will strengthen the Project Office located in MET (attached to the PS office, see annex 13 for more details) expertise, implementation and delivery capacity by adding 4 technical experts with expertise (two national and two international) to the PO staff.

The two sub-components are:

Sub component 4a): Project Office and Management: The sub-component provides the necessary infrastructure and training for the Project Office staff.

Sub Component 4b): Review and Reporting. The sub-component enables the timely delivery of project reports according to the project implementation plan.

10. Specifically, under Component 1, sub component 1a, community demand driven sub projects on communal lands in Conservancy Business Plans will be financed. The positive list of sub projects to be funded include the following primary activities; community woodlots using indigenous species, managed natural Mopane woodlands for sustainable production of non-timber forest products, Agro-forestry using indigenous species, tourism camps, lodges, guiding facilities, rehabilitation of eco-tourism infrastructure, tannery leather making from game and venison processing.

11. The World Bank Safeguard policy OP 4.12 is triggered only when people are being affected by physical displacement, or when the project activity causes land acquisition, whereby a physical piece of land is needed and people may be affected because they are cultivating on that land, they may have buildings on the land, they use the land for water and grazing of animals or they may otherwise access the land economically, spiritually or any other way which may not be possible during and after the project is implemented.

12. Under Component 1 therefore, for certain type of sub projects, communal land within a conservancy could be used to locate new infrastructure, or access could be restricted or denied due to sub project activities. Likewise, for forests/woodlands sub projects, promoting the sustainable use and management of forest ecosystems in a conservancy would also require either the loss, denial or restriction of access to certain areas of a forest or woodland, although the intention of the project is to facilitate change in access to resources only in the context of changes in support of sustainable resource management and use, with the consent of the membership of a conservancy.

13. Because Namibia is such a large country, approximately 825, 418 sq.km. of land, with a small population of 1.8 m, the average population density is as low as 2.18 persons/ sq. km (one of the lowest in the world), significant efforts can be made in the design and screening stages of the sub projects to select sites to avoid or minimize impacts on people, land, property, including peoples access to natural and other economic resources, as far as possible. In Namibia, there are large areas acres of unused/lightly-used/uninhabited land.
14. Notwithstanding, land acquisition or land use by some sub project recipient communities to support their planned activities under this project, may lead to either the physical or economic displacement of people or their loss, denial or restriction of access to economic resources and therefore ultimately to resettlement. Compensation of people may potentially be required, although none of the project interventions are deliberately designed to result in loss or restriction to access to any resource. When this occurs, the World Bank Operational Policy OP4.12 on Involuntary Resettlement and certain laws of Namibia will be triggered. This is possible because of the uneven and varying settlement patterns and population densities across Namibia, since significantly large portions of the country are uninhabitable (large desert and mountainous areas) due to difficult terrain and absence of water to sustain life and livelihoods. Settlement densities tend to be higher in more favorable and productive areas. Sites for project interventions will be deliberately chosen to avoid more favourable and productive areas. All sites and interventions will be selected with community consent (management committee and membership of conservancies). Infrastructural developments (e.g. tourism facilities) will be sited only with the consent of the relevant community, traditional authority, Regional Council and relevant Land Board. Interventions aimed at more favourable and productive areas, such as the development of resource management plans that would attempt to cover current economic activities including agriculture, will be aimed at developing consensual use of resources at community level. Component 1 interventions will be driven by demand from communal conservancies.

15. Land tenure, expropriation and administration in post- Independence (post-apartheid) Namibia are highly emotive issues, as there is an overwhelming disproportionate distribution of land between the minority white farmers and the majority black population.

16. The Government of the Republic of Namibia is taking positive steps to address these issues through a combination of appropriate land policies and legislation.

17. Special care should be taken during the implementation of sub project activities that require land acquisition/use that adversely affects people and their economic resources. None of the project activities are designed to create adverse effects. To the contrary, all project activities are designed to benefit residents of sections of communal State land in cases where such residents have acknowledged rights of residence under customary law, and acknowledged rights to a suite of natural resource under statutory law. The project is intended to assist such communities to manage such resources sustainably, enhance their economic benefits from the use of such resources and where possible, to expand and strengthen their natural resource base.

18. At this stage, the Government of the Republic of Namibia is not required to prepare a Resettlement Plan since the sub project activities have not yet been identified and therefore their lands needs have consequently not been determined also. However, the Government of the Republic of Namibia is required by the World Bank to prepare a Resettlement Policy Framework (RPF) during project preparation to be publicly disclosed in Namibia and at the info shop of the Bank, before appraisal of this project.

19. The RPF establishes the resettlement and compensation principles, organizational arrangements and design criteria to be applied to meet the needs of the people who may be affected by the project. The RPF is prepared to the standards of the

20. When specific planning information on the subprojects becomes available and the land/forest/woodland areas needed and/or affected are identified, for the sites that trigger OP 4.12, resettlement/compensation plans will be closely coordinated with the planning and implementation of civil works and then subsequently prepared consistent with this policy framework by the management committees and will be submitted to the Bank for approval before any land acquisition, resettlement, loss, denial of, and restriction to economic resources or any other impact on livelihood occurs.

21. This RPF governs all activities funded under the ICEMA, and is to be used in conjunction with the Environmental and Social Management Framework (ESMF) that has also been prepared for this project as a separate stand alone document, also disclosed at the Bank info shop and in Namibia.

This RPF covers the following sections:

B. Principles and objectives governing resettlement preparation and implementation.

C. A description of the process for preparing and approving resettlement plans.

D. Land acquisition and likely categories of impact.

E. Eligibility criteria for defining various categories of project affected persons.

F. A legal Framework reviewing the fit between the laws of Namibia and regulations and Bank policy requirements and measures proposed to bridge any gaps between them.

G. Methods of valuing affected assets.

H. Organizational procedures for the delivery of entitlements, including, for projects involving private sector intermediaries, the responsibilities of the financial intermediary, the government, and the private developer.

I. A description of the implementation process, linking resettlement implementation to civil works.

J. A description of the grievance redress mechanisms.

K. A description of the arrangements for funding resettlement, including the preparation and review of cost estimates, the flow of funds, and contingency arrangements.

L. A description of mechanisms for consultations with, and participation of, displaced persons in planning, implementation, and monitoring.

M. Arrangements for monitoring by the implementation agency and, if required, by independent monitors.
22. This RPF is to be used in conjunction with the Environmental and Social Management Framework (ESMF) and the Indigenous Peoples Development Plan that have all been prepared for this project as separate stand alone documents, also disclosed at the Bank info shop and in Namibia.

B. PRINCIPLES AND OBJECTIVES GOVERNING RESETTLEMENT PREPARATION AND IMPLEMENTATION.

The impacts due to involuntary resettlement from development projects, if left unmitigated, often gives rise to severe economic, social and environmental risks resulting in production systems being dismantled, people facing impoverishment when their productive skills may be less applicable and the competition for resources greater; community institutions and social networks being weakened; kin groups being dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost. The World Bank Safeguard policy OP 4.12 is not triggered only when people are being affected by physical displacement. It is also triggered when the project activity causes land acquisition, whereby a physical piece of land is needed and people may be affected because they are cultivating on that land, they may have buildings on the land, they use the land for water and grazing of animals or they may otherwise access the land economically, spiritually or any other way which may not be possible during and after the project is implemented. In all these cases, affected people are compensated for their loss (of land, property or access) either in kind or in cash of which the former is preferred.

Therefore, the objectives of this policy are the following;

(i) Involuntary resettlement, land acquisition, and access restrictions should be avoided where feasible, or minimized, exploring all viable alternatives.

(ii) Where involuntary resettlement, land acquisition, or restriction of access is unavoidable, resettlement and compensation activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to give the persons displaced by the project the opportunity to share in the project benefits. Displaced and compensated persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.

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

Affected people, according to the Bank Safeguard Policy OP 4.12, refers to people who are directly affected socially and economically by the bank assisted investment projects, caused by:

(a) the involuntary taking of land and other assets resulting in:
   a. relocation or loss of shelter
b. loss of assets or access to assets  
c. loss of income sources or means of livelihood, whether or not the affected persons must move to another location;

or

(b) the involuntary restriction or access to legally designated parks and protected areas results in adverse impacts on the livelihood of the displaced persons.

The Bank Safeguard Policy OP 4.12 applies to all components under the project, whether or not they are directly funded in whole or in part by the Bank.

The policy applies to all economically and/or physically displaced persons regardless of the total number affected, the severity of impact and whether or not they have legal title to the land. Particular attention should be paid to the needs of vulnerable groups among those economically and/or physically displaced; especially those below the poverty line; the land less, the elderly, women and children, indigenous groups, ethnic minorities and other historically disadvantaged groups or other economically and/or physically displaced persons who may not be protected through provisions in Namibia’s legislation concerning compensation for land.

In particular for the ICEMA project, the policy also requires that individual resettlement plans be implemented before the implementation of the sub project activities requiring land acquisition/land use, to ensure that displacement or restriction to access does not occur before necessary measures for resettlement and compensation are in place. It is further required that these measures include provision of compensation and of other assistance required for relocation, prior to displacement, and preparation and provision of resettlement sites with adequate facilities, where required. In particular, the taking of land and related assets may take place only after compensation has been paid; where applicable, resettlement sites, new homes, related infrastructure, public services and moving allowances have been provided to economically and/or physically displaced persons as the case may be; or when alternative income producing measures have been put into place to provide the income provided by assets to be lost. Furthermore, where relocation or loss of shelter occurs, the policy further requires that measures to assist the physically displaced persons are implemented in accordance with the resettlement plan of action.

To determine the potential impacts, consideration must be given to the distinct resource management entity that this ICEMA is designed to support. The distinct resource management entity is the communal conservancy.

Communities would develop or up-grade their Conservancy Management Plan (CMP) which would provide the overall development objective for the conservancy and contain multiple subproject activities to achieve this objective. The CMP will delineate how the entire area within the conservancy would be divided into areas/zones to be designated for different activities, such as for instance, strict conservation (e.g. wildlife only), multiple use (e.g. mixed wildlife and livestock), tourism development (could be a lodge in the conservation zone), human settlement, agriculture, fishing, timber utilization, etc. In addition to the elaboration of zones, the CMP would set the parameters for resource utilization (e.g. wildlife offtake), rangeland management (e.g. use of fire, combating soil erosion, positioning of water points, etc). Whereas, the ICEMA will not fund all activities
in a CMP\textsuperscript{2}, the success of the CMP plan in general and those individual sub project activities funded by the ICEMA in particular would depend on the connectivity and dependability of all activities in the plan, ultimately. Therefore, the principles of OP 4.12 will apply not only to sub project activities in a CMP funded by the ICEMA, but will also apply to those sub project activities within the same CMP that are not funded by the ICEMA. However, this will not apply to provisions concerning zonation or resource use that pre-date ICEMA interventions.

The impacts from sub project activities in a CMP are likely to be positive as they will result in sustainable use of natural resources, increase wildlife populations, raise rural incomes (both individual and household incomes) and hence livelihoods. However, some adverse impacts are possible on some community members, individuals, or households in a conservancy or bordering areas outside a particular conservancy, who for example, are restricted due to zoning of areas, from access to grazing land, fishing areas, water resources or other economic resources. Adverse impacts may also occur, if production cost is increased or incomes reduced due to alteration of access rights, distance, timing etc.

In these cases, individuals, households and communities may/will be impacted and resettlement and compensation cannot be avoided and OP 4.12 will be triggered even though no one may have to physically move or relocate to another location.

The potential for conflicts between those affected in this way and the conservancy management or other beneficiaries within a conservancy or adjacent conservancy does exist. It is particularly important therefore, to neutralize to the extent possible any socio-economic pressures in the communities that are likely to be exacerbated by involuntary resettlement, by facilitating the participation of those impacted in the sub project activities. Obtaining consensus by conservancy members on all site-based project interventions has been built into the design of ICEMA.

Therefore, offering impacted people the opportunity to continue to participate in the planning process that would lead to the preparation of Resettlement Plans is mandatory and Section L of this RPF deals with this requirement.

Offering impacted people the opportunity for employment within sub project activities or for participation in income generating activities, will provide tangible measures to ensure they also benefit from project activities. Capacity building and technical assistance opportunities available within the ICEMA project should also be targeted at project impacted people.

Furthermore, it is worth noting that an influx of people to selected land/sites and forest areas may occur by those wishing to take advantage of the rules of eligibility described earlier in this section. Were this to happen it would bring to bear additional pressures on the whole planning process and compensation budgets. This has major considerations therefore, when establishing the cut-off dates. The establishment of cut-off dates is discussed in Section E.

A major objective of this RPF is to ensure that project affected persons are meaningfully consulted, have participated in the planning process, are adequately compensated to the

\footnote{Annex 1 contains a positive list and negative list of sub project activities the ICEMA will fund.}
extent that at least their pre-displacement incomes have been restored and that the process has been a fair and transparent one.

C. DESCRIPTION OF THE PROCESS FOR PREPARING AND APPROVING RESETTLEMENT PLANS.

As stated earlier, the World Bank policy on Involuntary Resettlement OP 4.12 is triggered because the ICEMA project will finance productive investments that may require land acquisition and/or land use leading to loss, denial or restriction of access to economic resources. Since the location of all these sites during the 5-year project period are not known at the time of the preparation of the project, the preparation and disclosure of this RPF by the Government of the Republic of Namibia is a conditionality for appraisal of this project. During implementation of this project, in a process defined here below, the selection of these sites would be made. When that happens, land would be acquired or access to economic resources may be lost, denied or restricted and people may then be affected. At that stage, OP 4.12 calls for the preparation of individual Resettlement Plans that must be consistent with this RPF.

To address the impacts under this policy, resettlement plans must include measures to ensure that the displaced persons are;

(a) informed about their options and rights pertaining to resettlement.

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

(c) provided prompt and effective compensation at full replacement cost for losses of assets and access attributable to the project.

(d) enabled to restore and preferably improve their living standards compared to pre-project ones.

Therefore, the first stage in the process of preparing the individual resettlement plans is the screening process to identify the land acquisition and land use needs that will cause resettlement. The resettlement and compensation plans will contain the analysis of alternative sites undertaken during the land screening process.

The land screening process presented here below is designed to be part of the Management Committees\(^3\) planning stage, thereby ensuring that their business plan presented to the ICEMA project for funding also complies with the requirements of OP 4.12 and the laws of Namibia relating to land acquisition/use and resettlement.

---

\(^3\) Communities living in the physical planning unit (i.e. a conservancy) will elect/appoint/select their Management Committees.
The Land Selection Screening Process

Step 1: Management Committees using participatory techniques mobilize their community members to develop a Business Plan (BP)\(^4\) using the conservancy areas as the physical planning unit on the basis of the existing CMP. The management committees would be assisted by their service providers throughout this process.

Step 2: As part of the CMP, the physical planning unit will be divided into zones/areas to thereby, stating/illustrating where certain types/groups of activities are designed to take place for the benefit of all. These activities are to be implemented in the form of multiple sub projects using the community demand driven (CDD) principle of participation/implementation.

Step 3: The CMP and BP will for each zone, contain specific planning information on sub project activities in the form of engineering and other technical details, land use needs and routes required, etc.

Step 4: When this information becomes available, the Management Committee with continued assistance of its service providers and using participatory techniques, makes the following evaluation based on Fig. 1 to determine which pieces of land, if any, within a zone in their conservancy, is affected by resettlement issues and hence OP 4.12

Step 5: The use of land that triggers OP 4.12 should be avoided where possible, by re-routing, re-zoning, choosing alternative sites, etc.

\(^4\) In the context of ICEMA, business plans can be part of management plans or stand-alone plans for specific sub-projects.
Figure 1: Flow Chart for Land Screening, Preparation and Approval of RAP's
Step 6: For situations where resettlement or restriction of access cannot be avoided, OP 4.12 will apply. For each parcel of land that has potential PAPs, so determined using the process described above, the cut-off date\(^5\) will be immediately established using participatory methods again, acceptable according to local traditions.

**Step 7:** For each parcel of land that has potential PAPs, the Management Committee will request its service providers to carry out (i) a socio-economic study and (ii) a census\(^6\) to identify the potential PAPs on the individual, household and vulnerable groups level and to calculate their household incomes, as the first step in the preparation of the RAPs.

**Step 8:** On completion of the socio-economic study and the baseline census the Management Committee will prepare a Resettlement and Compensation Plan (RAP) for each site/parcel of land that is affected by resettlement and compensation. There will be as many RAPs as there are affected parcels of land.

Where the impacts on the entire displaced population are minor (i.e. if affected people are not physically displaced and less than 10% of their productive assets are lost) or fewer than 200 people are displaced per physical planning unit (i.e. conservancy), then the bank may approve the preparation of short Resettlement Plan (ARAP) that reflects the requirements of this RPF. The minimum contents of such a short RAP are to be:

(a) a census survey of displaced persons and valuation of assets.
(b) Description of compensation and other resettlement assistance to be provided.
(c) Consultations with displaced people about acceptable alternatives.
(d) Institutional responsibility for implementation and procedures for grievance redress in the specific area in question
(e) Arrangements for monitoring and implementation of the subproject, and
(f) A timetable and budget.

---

\(^5\) The significance of establishing a cut of date is discussed in Section E.

\(^6\) The purpose of the socio-economic study is to collect base line data within the chosen/targeted sites/areas thereby enabling the social assessment of potentially affected populations/communities. The socio-economic study would focus on the identification of stakeholders (demographic data), the participation process, identification of affected people (including owners and users of land) and impact on their property and their production systems, the institutional analysis and the system for monitoring and evaluation. Detailed calculation of individual and household economies and identification of all impacts will be undertaken as part of the socio-economic study and be the determinant in the potential compensation process. Standard characteristics of the affected households, including a description of production systems, labor, and household organization, and baseline information on livelihoods (including production levels and incomes derived from both formal and informal economic activities) and standards of living and health status of the PAPs. Under this study a comprehensive base line census would be carried out to identify potentially affected people on the individual and household levels, vulnerable groups (women, children, the elderly, female headed households, black farm workers, HIV/AIDS affected persons etc.) and to discourage inflow of people ineligible for assistance.
For impacts that are not considered minor, the preparation of a Resettlement Action Plan (RAP) is required for each site. World Bank OP 4.12 article 25 and Annex A sets the requirements of the RAP to include:

(a) Description of the sub-project  
(b) Potential Impacts  
(c) Objectives  
(d) Socioeconomic Studies  
(e) Institutional Framework.  
(f) Eligibility, if different from the issues in the overall RPF  
(g) Valuation of and compensation for losses  
(h) Resettlement measures, including plans to restore any income that may be lost from any assets or natural resources to be lost  
(i) Site selection, site preparation, and relocation  
(j) Housing, infrastructure, and social services  
(k) Environmental protection and management  
(l) Community participation  
(m) Integration with host populations  
(n) Organizational responsibilities for the sub-project  
(o) Implementation schedule  
(p) Cost and budget  
(q) Monitoring and evaluation

The RAPs cover the elements above, as relevant. When any element is not relevant to the management committees circumstances, it should be noted in the RAP.

Step 9: The RAPs would then be forwarded for screening and approval to the respective Regional Land Board, the Ministry of Environment and Tourism and the Ministry of Lands, Resettlement and Rehabilitation (MLRR), in compliance with the local planning laws and project institutional and administrative requirements. All sub project activities that trigger OP 4.12 and their resettlement plans would be subject to the final approval of the World Bank to ensure compliance with bank safeguards. This will ensure that before land is actually acquired or access to resources is lost, denied or restricted, that the individual resettlement plans are consistent with this RPF.

For the World Bank to approve funding for any sub project activities that needs to acquire or use land to support proposed investments under this project, the management must first comply with all local laws and seek clearance of the local authorities to use/acquire the land for that purpose, consistent with the provisions of this RPF. For investments on land that is already owned or in use by the management committee pre-project, the World Bank will only approve funding once it is satisfied that the provisions of this RPF were met in cases where OP 4.12 apply.

Furthermore, the Regional Land Boards, the MET and the MLRR should as a guideline consider the cumulative factor and not approve multiple sites that have individual high impact intensity. For example, where land acquisition is required to such an extent that it would require more than 20% of a community’s or individual’s total land under use or when the mitigation measures are so cumbersome that their efficacy cannot be predetermine or they cost more than 15% of the investment budget.
Before the decision to approve a site is taken, the MET would need to approve or disapprove the resettlement and compensation plans of the Management Committees proposed investments in totality with the overall environmental and social screening process that has been applied for each of their proposed investments and to also approve or disapprove of the proposed mitigation measures, if any.

Capacity will be built at the level of the Regional Land Boards, MET and MLRR and other areas in the Management Committees and amongst the local communities, by providing technical assistance to allow the management committees to screen their proposed sub project investments for environmental and social concerns. This training will also include the capacity to develop mitigation measures to meet environmental and social impacts and to prepare implementation of such measures. This would build capacity at the level of the management committees and their local communities with regards to environmental and social safeguards issues, which is crucial for success of this project.

D. LAND ACQUISITION AND LIKELY CATEGORIES OF IMPACT

Until the exact sub project locations are determined it will not be possible to estimate the likely number of people who may be affected since the technical details of the sub projects have not yet been developed and are unknown.

However, the likely displaced (economically or physically) persons can be categorized into these 3 groups, namely:

(i) **Affected Individual** – An individual who suffers loss of assets or investments, land and property and/or access to natural and/or economical resources as a result of the project activities and to whom compensation is due. For example, an affected individual is a person who farms a land or works and lives on a farm, pastoralists whose routes have been altered, or a person who has built a structure on land that has been demarcated and is now required by the sub project. This will include affected individuals who have economic activity on communal land on a new conservancy or other project land.

(ii) **Affected Household** – a household is affected if one or more of its members is affected by project activities, either by loss of property, land, loss of access or otherwise affected in any way by project activities. This provides for:
   (a) any members in the households, men, women, children, dependent relatives and friends, tenants
   (b) vulnerable individuals who may be too old or ill to farm along with the others
   (c) members of households who cannot reside together because of cultural rules, but who depend on one another for their daily existence
   (d) members of households who may not eat together but provide housekeeping, or reproductive services critical to the family’s maintenance, and
   (e) other vulnerable people who cannot participate for physical or cultural reasons in production, consumption, or co-residence.

In the local cultures, members of production, consumption, and co-resident groups form overlapping, often incongruent sets of people who may exchange domestic or farming services on a regular basis even though living separately.
Compensation will not be limited to people who live together in a co-resident group, since this might leave out people whose labor contributions are critical to the functioning of the “household”. For example, among polygamous settings, each wife has their own home.

(iii) **Vulnerable Households**: in Namibia because of the ravaging effects of the apartheid system and the struggle for liberation from South Africa, vulnerable households may have different land needs from most households or needs unrelated to the amount of land available to them. They may already be undergoing some form of rehabilitation including training to acquire vocational skills in purpose built centers. However, the following particularly vulnerable groups need special attention:

a) **Landless Residents on Communal Lands** - this group have little or no usufruct rights, are often the poorest of the poor, destitute, unskilled, unemployed and unemployable and often shunned by rest of contemporary society.

b) **The San Community members** – the indigenous people of Southern Africa who generally live in the Kalahari desert areas of this region. Their specific needs have been addressed in the Indigenous Peoples Development Plan (IPDP), prepared specially for this project.

c) **Ex-soldiers and combatants** – from the struggle for liberation. Many have been successfully demobilized and re-integrated into society, but some remain vulnerable because they have physical disabilities, and have lost family members who supported them.

d) **AIDS afflicted persons** – a relatively high percentage of the poor and black population are living with HIV or are terminally ill with AIDS. Many are beneficiaries of numerous health programs from government (central and local), international organizations and the NGO community.

e) **Orphans** – due to the impacts of the AIDS crisis that plagues Namibia today, there are a considerable number of orphaned children, whose parents have died from AIDS. These children today fall into three categories of care; (i) those being looked after by an uncle, aunt, grandparents or other close relative, (ii) those being looked after by the government, local authorities or NGOs and (iii) those living alone and providing for themselves and other siblings. These children are more vulnerable since they are often “voiceless” because they have no parents to defend or stand up for them and also because they are considered too young to be heard. Orphaned children engage in any form of economic activity to provide for themselves and their siblings, by engaging in activities such as paraffin selling, artisanal mining, water selling, exploitative employment etc.

f) Despite the laws of Namibia and the International Labor Organization (ILO) prohibiting the exploitation of children, it is a reality that street children are either in paid employment or are on the streets in some areas in Namibia. They tend to live in close proximity to large towns and cities.
Children in e) and f) above should they become impacted by this project in a way that means they have to be physically relocated, their compensation cannot be in cash. They would have to be put in a Unicef program or registered with one of the many children's charities that are operating in Namibia today. Their compensation would take the form of paying for their rehabilitation and training to acquire useful vocational skills.

**g) Women headed households—** may depend on husbands, sons, brothers or others for support. During the apartheid era, black men were forced to migrate to areas far from home to work in the mines, other black men fell victims of the political liberation process and lost their lives and for many other reasons, leaving behind many women headed households which to some extent still exist. In other cases too, women are the main breadwinner in their household even where the men have remained with the family. Women therefore need relatively easy access to health service facilities, as mothers and wives. For example, where the land being acquired is used by a woman with no formal rights to it or a woman who is dependent on a man other than her husband for her primary income. These women should not be resettled in a way that separates them from their households as the very survival of their households may depend on them. Their compensation must take into account all these factors.

**h) Elderly—** elderly people farm or work as long as they are able. Their economic viability may depend on how much land they farm or how much they produce because, by producing even small amounts of food to "exchange" with others, they can subsist on cooked food and generous return gifts of cereal from people such as their kith and kin and neighbors. Losing land will affect their economic viability. What would damage their economic viability even more than losing land is resettlement that separates them from the person or household on whom they depend for their support. The definition of household by including dependents avoids this.

These household types are not mutually exclusive, so that an orphaned child may be a landless resident on communal lands and the elderly may be an ex-combatant, etc.

These groups are being identified as particularly vulnerable so that special attention would be paid to them by identifying their needs from the socio-economic and baseline study so that (i) they are individually consulted and given the opportunity (i.e. not left out) to participate in the project activities, (ii) that their resettlement and compensation is designed to improve their pre-project livelihood (iii) special attention is paid to monitor them to ensure that their pre-project livelihood is indeed improved upon (iv) they are given technical and financial assistance if they wish to make use of the grievance mechanisms of the project and (v) decisions concerning them are made in the shortest possible time.
E. ELIGIBILITY CRITERIA FOR DEFINING VARIOUS CATEGORIES OF PROJECT AFFECTED PERSONS

The Bank’s OP4.12 suggests the following three criteria for eligibility;

a) Those who have formal rights to land (including customary/communal land, traditional and religious rights, recognized under Namibian Law).

b) Those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets provided that such claims are recognized under the national and local laws of Namibia or become recognized through a process identified in the resettlement plan.

c) Those who have no recognizable legal right or claim to the land they are occupying, using or getting their livelihood from.

Those covered under a) and b) above are to be provided compensation for the land they lose, and other assistance in accordance with the policy. Persons covered under c) above are to be provided with 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 established by the management committees in close consultation with the potential PAPs, local community leaders and the respective Regional Land Boards and the MET and acceptable to the Bank. Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance. All persons included in a), b) or c) above are to be provided with compensation for loss of assets other than land.

Therefore, it is clear that all project affected persons irrespective of their status or whether they have formal titles, legal rights or not, squatters or otherwise encroaching illegally on land, are eligible for some kind of assistance if they occupied the land before the entitlement cut-off date. Persons who encroach the area after the socio-economic study (census and valuation) are not eligible for compensation or any form of resettlement assistance.

Eligibility for Community Compensation

Communities (on communal lands) permanently losing land and/or access to assets and or resources under statutory or customary rights will be eligible for compensation. Example of community compensation could be for public toilets, market place, taxi parks, schools and health posts. The rationale for this is to ensure that the pre-project socio-economic status of communities where adversely impacted, is also restored.

Method to Determine the Cut – Off Dates

The entitlement cut-off date refers to the time when the enumeration of persons and the inventory of their property and income sources in the identified project areas are carried out, i.e. the time when the management committees have identified the land sites they would need and when the socio-economic study is taking place. Thereafter, no new cases of affected people will be considered except through accepted grievance mechanisms for such cases as migrant workers or others away from the area being
considered at the time of the inventory and enumeration. Unfinished structures would be identified and secured, and unused materials will be piled at the site so that the cut-off survey can estimate investment which should be compensated for in lieu of expenses (including labor) incurred until the cut-off date.

The establishment of a cut-off date is required to prevent opportunistic invasions/rush migration into the chosen land thereby posing a major risk to the project. Therefore, establishment of the cut-off date is of critical importance. Because the time period between the cut-off date and the time actual productive investments (civil works, etc.) would start bearing also in mind that only after PAPs have been compensated and any replacement structures built according to the requirements of this RPF, is likely to be anytime period from six months on, special attention needs to be taken to secure the sites from rush and opportunistic invasion. These measures could include close consultation with the recognized PAP’s, signs that inform general public of intended use of site, security patrols to identify opportunistic invaders etc.

This date is to be chosen in close consultation with the Regional Land Boards, and Traditional Leaders and the Management Committees, as soon as possible after the affected land is identified. This process must be in full compliance with the conflict resolution mechanisms in this RPF and this date must be communicated effectively to the potential PAP’s and surrounding local communities.

The local community and traditional leaders will play a crucial role in identifying users of land.

F. A LEGAL FRAMEWORK REVIEWING THE FIT BETWEEN THE LAWS AND REGULATIONS OF THE REPUBLIC OF NAMIBIA AND BANK POLICY REQUIREMENTS AND MEASURES PROPOSED TO BRIDGE ANY GAPS BETWEEN THEM.

Windhoek is the capital of Namibia. Administratively, Namibia is divided into 13 regions, which are Caprivi, Erongo, Hardap, Karas, Khomas, Kunene, Oshangwena, Okavango, Omaheke, Omusati, Oshana, Oshikoto and Otjozondjupa.

The Constitution of Namibia provides for administration of land in Namibia to be by Statutory Law and Customary Law. Generally, Statutory laws apply to land in urban areas and Customary Laws to rural/communal lands.

Relevant Policy Provisions

- The National Resettlement Policy (adopted in 2001)
- National Lands Policy 1998
- Land-use Planning: Towards Sustainable Development", was approved and published by MET in 1994.

The National Resettlement Policy (adopted in 2001), was developed by the post-Independence Ministry of Lands, Resettlement and Rehabilitation (MLRR). The policy
aims primarily to improve the living standards of all Namibians, particularly those who were disadvantaged by the apartheid regime. Within this category of persons, the policy identifies the San community; ex soldiers; displaced, destitute and landless people; people with disabilities and people living in overcrowded communities, as requiring land upon which to be resettled. However, the policy does not only intend to resettle people, it stresses the need for government to provide technical support so that people can develop the knowledge and skills that will enable them to use the land and its resources in a sustainable way.

The policy defines resettlement as the “movement of people from and area with insufficient resources to one which is more likely to provide a satisfactory standard of living” and stipulates that resettlement is voluntary. The National Resettlement Policy does not address the issue of involuntary, project-induced resettlement.

The Ministry of Lands, Resettlement and Rehabilitation promulgated its National Lands Policy in 1998. The policy aims to promote the sustainable use of land as a natural resource. The owners and/or occupiers of land including conservancies, and regardless of type of tenure, would have rights to the exploitation of renewable natural resources such as wildlife, water, fish, forest resources and natural rangelands.

The environmental issues related to land distribution and use in urban areas are addressed via the use of the environmental impact assessment mechanism. Financial and tax incentives are also to be utilized to promote the use of alternative energy sources and the protection, promotion and rehabilitation of existing natural environments. The policy further states that failure to maintain sustainable use or the causing of any other environmental damage could be cause for the cancellation of titles.

In the rural areas, the National Land Policy assigns the responsibility for land use planning and natural resource management related issues to the Land Use and Environmental Boards which are required to consult with the Regional Land Board on issues related to land rights.

The policy document, "Land-use Planning: Towards Sustainable Development", was approved and published by MET in 1994. The policy addresses issues related to land tenure and physiographic landforms, namely, communal land, privately owned commercial farmland, proclaimed State land, urban areas and wetland systems. The policy objective is to encourage the rational and integrated planning of land use based on sound ecological principles in the rural areas of Namibia including conservancies. It seeks to establish suitable participatory structures to enable local communities to participate in decision making and to take responsibility for the management of natural resources on the land they occupy in order to generate maximum benefits to the community.

The guiding principle of the policy requires that the conservation and management of the natural resource on communal land be community-based. The process should involve extensive consultation with and participation of the community with the ultimate objective of self-sustainability of the community-based management system. The development of the conservancy system and the attendant legislative process to support them is a manifestation of the successful implementation of this policy in achieving community-based protection of some of the natural resources, namely wildlife or game, on communal land.
The policy also seeks to encourage the rational and integrated planning and management of wetland systems for the preservation of biological diversity, the maintenance of natural life support systems and sustainable resource use. It requires the establishment of a national inventory and quantitative assessment of wetland resources, the identification of the benefits and values of wetlands and the regulated use of their flora and fauna. It further requires that proper environmental assessments be undertaken before and during the execution of developmental projects on wetlands. Where wetlands exist within the borders of conservancies then this policy will become relevant.

**Relevant Legislative Provisions**

- The Constitution of the Republic of Namibia
- Agricultural (Commercial) Land Reform Act, 1995
- Communal Land Reform Act, 2002
- The Forest Act 2001

**Communal Land Reform Act (Act No. 5 of 2002)**

The Communal Land Reform Act (Act No. 5 of 2002) seeks to regulate the land tenure relationship between the State and those occupying communal land owned by the State. It recognizes the existence of communal area conservancies and by extension the role they play in conservation. The Act seeks to make unused communal land available to individuals under leasehold. This will effectively reduce the areas of jurisdiction of traditional leaders by bringing customary land under the control of the state. The Act makes provision for the conversion of these allocated unused areas to leasehold rights for periods of up to 99 years. This extensive period of tenure and the secure rights associated with leasehold will be a positive business incentive for conservancies.

Persons who are aggrieved by a decision of a Traditional Authority and/or Land Board will be able to appeal against such a decision to an appeal tribunal appointed by the Minister of Lands.

The Communal Land Reform Act recognizes the existence of conservancies and offers a measure of protection against arbitrary granting of leases on existing conservancy land. The members of the conservancies as well as the conservancy itself are able to apply for leases on existing conservancy land but the leases will not be granted if it changes significantly the agreed management plans and resource use of the conservancy. The Communal Land Reform Act will definitely change the status of land tenure and will also have positive implications for the conservancies and the protection of biodiversity within them.

The makeup of the Communal Land Boards makes provision for membership for one representative from MET and for one representative from the conservancies within the relevant traditional area.

With regard to customary land tenure, the Act recognizes and confirms the powers of traditional leaders to allocate and revoke rights in land. The Act further provides for
inheritance of customary allocations through the Traditional Authority of a particular area.

The Forest Act (No. 12 of 2001)

The Directorate of Forestry of the MET is responsible for implementation of the Forest Act of 2001 that replaced the Forest Act of 1968. The new Act deals with issues such as administration of forest reserves and their management, environmental protection, utilization of forest products and enforcement of the law. Under forest management, the Act states that its purpose is to conserve soil and water resources, maintain biological diversity and produce forest products in a manner that will protect and enhance the natural environment. This will require the establishment and maintenance of forest inventories and the production and implementation of forest management plans. Restrictions are to be placed on harvesting of forest products, hunting, mining, construction, road building, agriculture, livestock grazing and soil removal within forest and nature reserves. Some of these provisions will also apply to conservancies when and where forested areas are included within their boundaries. Additionally, the Forest Act makes provisions for the declaration of Community Forests where management responsibility as well as the rights to the benefits from such forests are granted to communities. These communities could also be the same as represented in the conservancies.

With respect to environmental protection, the Minister of Environment and Tourism is empowered to declare and/or establish protected areas after consultation with the Minister of Lands, Resettlement and Rehabilitation, the Minister of Agriculture, Water and Rural Development and other interested parties including conservancies where relevant. The Act also allows for the creation and alteration of forest reserves, forest management areas and nature reserves. A nature reserve would be the highest level of protection to be afforded under the law. The created protected area will be for the protection of soil, water resources and biological diversity. Vegetation within or close to waterways and on sand dunes will be protected by restrictions to be placed on the cutting and removal in such areas.

Thus, while the various national polices and laws provide an important context for addressing issues relating to the resettlement people, none gives explicit, clear and unambiguous guidelines that can be adopted for implementation of this project.


The law relating to Land administration in Namibia is wide and varied. Entitlements for payment of compensation are essentially based on the one hand on the right of ownership as allowed or defined under statutory or customary law. The Governments land reform policies as part of the transformation of Namibia as a country and as a society requiring fundamental restructuring of settlement patterns to ensure greater equity and efficiency. It is clear that apartheid has left acute anomalies to the racial composition, form and function in settlement patterns. Many of the settlements continue to reflect past segregated settlement patterns and manifest signs of disintegrated land-use patterns. The Government is addressing these problems through a broad and
comprehensive Land and Tenure Reform Program which can be characterized mainly by the following objectives:

- Increased sustainable land use
- Better access to land administration services
- Reaching land redistribution targets
- Decrease in state owned land
- Increased State land vesting
- Increased security of land tenure.

The Bank's OP4.12 states that all project affected persons are entitled to some form of compensation whether or not they have legal title, as long as they have controlled or used the land or resources in question on a regular basis before the project-defined cut-off date.

Therefore, for this project the laws of Namibia would take precedence in as far as it recognizes rights of tenure. In cases where project affected persons have no rights of tenure according to Namibian law, the provisions of the Bank OP 4.12 would apply in terms of their rights for compensation, consultation, grievance mechanism etc, where they have been affected by this project. Where, there is conflict between laws of Namibia and the Bank OP 4.12, the latter must take precedence if the Bank is to fund the sub-project.

**Comparison of Namibian Law and World Bank OP4.12 regarding compensation.**

<table>
<thead>
<tr>
<th>Category of PAPS/Type of Lost Assets</th>
<th>Namibian Law</th>
<th>World Bank OP4.12</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Owners</td>
<td>Cash compensation based upon market value. Under statute. Land for Land under Customary Law</td>
<td>Recommends land-for-land compensation. Other compensation is at replacement cost.</td>
</tr>
<tr>
<td>Land Tenants</td>
<td>Entitled to compensation based upon the amount of rights they hold upon land under relevant laws.</td>
<td>Are entitled to some form of compensation whatever the legal recognition of their occupancy.</td>
</tr>
<tr>
<td>Land Users</td>
<td>In some cases land users have some form of secured tenure extended to them under new laws. In other cases land users not entitled to compensation for land, entitled to compensation for crops and any other economic assets. Land for Land under customary tenure</td>
<td>Entitled to compensation for crops, may be entitled to replacement land and income must be restored to pre-project levels at least.</td>
</tr>
<tr>
<td>Users of natural resources subject to be put under control of conservancy members for sustained use and development</td>
<td>No compensation when law is followed</td>
<td>Entitled to compensation for lost income from loss of access to or use of resources. lost income must be computed, and restored to pre-project levels at least.</td>
</tr>
<tr>
<td>Owners of &quot;Non permanent&quot; Buildings</td>
<td>Cash compensation based on market value or entitled to new housing on authorized land under government (state or local) housing programs.</td>
<td>Entitled to in-kind compensation or cash compensation at full replacement cost including labor and relocation expenses, prior to displacement.</td>
</tr>
<tr>
<td>Owners of &quot;Permanent&quot; buildings</td>
<td>Cash Compensation is based on</td>
<td>Entitled to in-kind compensation or</td>
</tr>
</tbody>
</table>

26
Based on this comparison, the below presented entitlement matrix is so designed to assist the process by bridging the gaps between the requirements under Namibian Law and the World Bank OP 4.12. The higher of the three standards is followed in this entitlement matrix, since this procedure also satisfies the requirements of the lesser two standards. The missing values in the entitlement matrix will be determined at the time the resettlement plans (RAPS) are being negotiated and prepared.

As a result, all land to be managed by the management committees for this project, if any (and no land acquisition is foreseen through ICEMA) would be so acquired for management purposes subject to the Laws of Namibia and the Bank OP 4.12.

<table>
<thead>
<tr>
<th>Perennial Crops</th>
<th>Cash compensation based upon rates calculated as an average net agricultural income.</th>
<th>As per section G of this RPF once approved by the Bank and disclosed in Namibia and at the Bank infoshop.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>market value.</td>
<td>cash compensation at full replacement cost including labor and relocation expenses, prior to displacement.</td>
</tr>
<tr>
<td>Category of PAP</td>
<td>Type of Loss</td>
<td>Compensation for Loss of Structures</td>
</tr>
<tr>
<td>----------------</td>
<td>-------------</td>
<td>-------------------------------------</td>
</tr>
<tr>
<td>Property Owners</td>
<td>Loss of Land</td>
<td>Replacement Costs at full replacement value</td>
</tr>
<tr>
<td></td>
<td>Loss of Structure Residential or Business</td>
<td>Compensation at full replacement value not depreciated.</td>
</tr>
<tr>
<td>Residential Tenant: Business Tenant</td>
<td>Loss of rental accommodation</td>
<td>No loss of structure, no entitlement to housing at new site.</td>
</tr>
<tr>
<td>Resource user</td>
<td>Loss of Premises</td>
<td>No Loss</td>
</tr>
<tr>
<td>Encroachers (using Land)</td>
<td>Loss of Land</td>
<td>None</td>
</tr>
<tr>
<td>Squatters (living on Site)</td>
<td>Loss of Shelter</td>
<td>Compensation at full replacement value for structure, relocation to</td>
</tr>
<tr>
<td>resettlement site, with payment of site rent.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

n.b.: all payments to be made in Namibian Dollar (NAD). Dollar values indicated in table to allow for international interpretation/conversion only.
G. METHODS OF VALUING AFFECTED ASSETS.

The ICEMA project will only operate on communal lands. Therefore, valuation methods for affected land and assets would depend on the type of asset and subject to customary laws. Land assets would be valued according to the following method and compensation paid for. The management committees would compensate for assets and investments, including labor, crops, buildings, and other improvements, according to the provisions of the resettlement plan. Compensation rates would be market rates as of the date and time that the replacement is to be provided. The market prices for cash crops would have to be determined. Calculations for compensation would not be made after the entitlement cut-off date in compliance with this policy. For community land held under customary law, the permanent loss of any such land will be covered by community compensation which will be in-kind, only. However, because the bank policy on resettlement, OP4.12, makes no distinction between statutory and customary rights, not only assets and investments will be compensated for, but also land. Thus, a customary land owner or land user on state owned land, will be compensated for land, assets, investments, loss of access etc. at market rates at the time of the loss.

Compensation Payments and Related Considerations.

Individual and household compensation will be made in cash, in kind, and/or through assistance. The type of compensation will be an individual choice although every effort will be made to instill the importance and preference of accepting in kind compensation if the loss amounts to more that 20% of the total loss of subsistence assets.

<table>
<thead>
<tr>
<th>FORMS OF COMPENSATION</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash Payments</td>
<td>Compensation will be calculated in Namibian Dollars. Rates will</td>
</tr>
<tr>
<td></td>
<td>be adjusted for inflation.</td>
</tr>
<tr>
<td>In-kind Compensation</td>
<td>Compensation may include items such as land, houses, other</td>
</tr>
<tr>
<td></td>
<td>buildings, building materials, seedlings, agricultural inputs</td>
</tr>
<tr>
<td></td>
<td>and financial credits for equipment.</td>
</tr>
<tr>
<td>Assistance</td>
<td>Assistance may include moving allowance, transportation and</td>
</tr>
<tr>
<td></td>
<td>labor.</td>
</tr>
</tbody>
</table>

Making compensation payments raises some issues regarding inflation, security and timing that must be considered. One purpose of providing in-kind compensation is to reduce inflationary pressures on the costs of goods and services. Local inflation may still occur, thus market prices will be monitored within the time period that compensation is being made to allow for adjustments in compensation values. The question of security, especially for people who will be receiving cash compensation payments needs to be addressed by the local administration. Local banks and micro finance institutions should work closely with the local administration at this level to encourage the use of their facilities which will positively impact the growth of the local economies. The time and place for in-kind compensation payments will be decided upon by each recipient in consultation with the management committee and the MET. Monetary payments should be paid at a time in relation to the seasonal calendar.
Compensation for Land

Compensation for land is aimed at providing a farmer whose land is acquired and used for project purposes with compensation for land labor and crop loss. For this reason, and for transparency, "Land" is defined as an area or Homestead:

- In cultivation
- Being prepared for cultivation, or
- Cultivated during the last agricultural season

This definition recognizes that the biggest investment a farmer makes in producing a crop is his or her labor. A farmer works on his/her land most of the months of the year. The major input for producing a crop is not seed or fertilizer, but the significant labor put into the land each year by the farmer. As a result, compensation relating to land will cover the market price of labor invested as well as the market price of the crop lost.

Land measurement

For purposes of measuring land, the unit of measurement would be that which is used and understood by the affected farmers. Therefore, in rural areas if a traditional unit of measurement exist, that unit should be used. If a traditional unit of measurement does not exist in a particular area then it is recommended that land should be measured in meters or any other internationally accepted unit of measurement. However, in such an event, the unit that is being used must be explained to the affected farmers/users and must somehow be related to easily recognizable land features that the communities are familiar with, such as using location of trees, stumps, etc. as immovable pegs. The most important concern of this exercise is to ensure that the affected person is able to verify using his/her own standards/units of measurement for him/herself, the size of land that is being lost. Ensuring that this occurs maintains transparency in the system and will thus avoid subsequent accusations of wrong measurements or miscalculation of areas. For instance, a farmer losing a certain piece of land should know exactly how much land he/she is losing, in terms of size and the replacement land must be at least of that same size and comparable quality as land lost, determinable by the farmer.

Calculation of Crops Compensation Rate

The current prices for cash crops would have to be determined. All crops to be compensated using a single rate regardless of the crop grown. This rate incorporates the value of crops and the value of the labor invested in preparing a new land. Determining compensation using a single rate creates transparency because anyone can measure the area of land for which compensation is due and multiply that by a single rate known to all. This approach also allows assignment of values to previous year's land (land in which a farmer has already invested labor) and land that have been planted but have not yet sprouted. Further, it avoids contention over crop density and quality of mixed cropping. The value of the labor invested in preparing agricultural land will be compensated at the average wage in the community for the same period of time. The rate used for land compensation is to be updated to reflect values at the time compensation is paid. The following example, which is based on 2003 data, derives a
total value for a one hectare land from the value of the crops on the land and the value of labor invested in preparing a replacement land.

### EXAMPLE OF METHOD TO BE USED TO DETERMINE A MONETARY COMPENSATION RATE FOR LAND*

*(Based on 2003 data. Namibian Dollar payments will be revised to reflect crop values and labor rates in effect at the time of compensation)*

<table>
<thead>
<tr>
<th>Item Compensated</th>
<th>Basis of Value</th>
<th>Namibian Dollar/ha</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Value of Crops</strong></td>
<td>Average of the highest 2003 official and market survey land prices per ha of staple food crops (maize, rice etc.), plus cash crops (e.g. sugar cane, corn).</td>
<td></td>
</tr>
<tr>
<td><strong>Labor Invested</strong></td>
<td>Labor costs of preparing a replacement land.</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>Replacement value of crops plus labor.</td>
<td></td>
</tr>
</tbody>
</table>

* Note: This example assumes a one-hectare land.

Crop values will be determined based on:

- A combination of staple foods and cash crops. Specifically, the 80/20 ratio of land that a farmer typically has in food crops and cash crops is used to determine the chances s/he would lose food crop rather than a cash crop income.

- The value of staple crops to be taken as the highest market price (over 3 years) reached during the year, in recognition of these factors:
  - Although most farmers grow staple crops mainly for home consumption, they always have the option of selling these crops to take advantage of the market.
  - Farmers most often purchase cereals when they have run out, during the "hungry season" when prices are high. Compensating at a lower value might put the individual or household at risk.
  - Averaging the highest price of stable foods yields a high per ha value that reimburses for the vegetables and other foods that are commonly inter-cropped with staples, but are almost impossible to measure for compensation.

- The labor cost for preparing replacement land is calculated on what it would cost a farmer to create a replacement land. This value is found by adding together the average costs of clearing, plowing, sowing, weeding twice, and harvesting the crop. Labor costs will be paid in Namibian Dollar, at the prevailing market rates.

The following table presents an example of a compensation schedule for a one-hectare land unit. The Namibian dollar values are based on arbitrary labor rates, which will need to be validated at the time payments are made.
EXAMPLE OF LAND COMPENSATION SCHEDULE OF PAYMENTS

<table>
<thead>
<tr>
<th>Activity</th>
<th>Month Paid (generic, may be different depending of climate zones)</th>
<th>Labor in Namibian Dollar/ha Rate Cost/day x no. of days</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clear</td>
<td>March</td>
<td></td>
</tr>
<tr>
<td>Plough</td>
<td>May</td>
<td></td>
</tr>
<tr>
<td>Sow</td>
<td>May</td>
<td></td>
</tr>
<tr>
<td>Weed</td>
<td>May</td>
<td></td>
</tr>
<tr>
<td>Harvest</td>
<td>November</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

All agricultural labor activities are included for two reasons. First, because of the need for transparency, all land labor will be compensated for at the same rate. Second, it is difficult to forecast when during the growing season a farmer might need to give up his/her land. Thus, the land compensation covers all investments that a farmer will make. In certain cases, assistance may be provided to land users in addition to compensation payments, for example, if the farmer is notified that his/her land is needed after the agriculturally critical date of March (generic date, may be different in Namibia and across climate zones) when s/he will no longer have enough time to prepare another land without help. Assistance will be provided in the form of labor intensive village hire, or perhaps mechanized clearing, so that replacement land will be ready by the sowing dates. The farmer will still continue to receive his/her cash compensation so that s/he can pay for sowing, weeding and harvesting.

Compensation for Buildings and Structures.

Compensation will be paid by replacing structures such as huts, houses, farm outbuildings, latrines and fences. Any homes lost will be rebuilt on acquired replacement land, however cash compensation would be available as a preferred option for structures (i.e. extra buildings) lost, that are not the main house or house in which someone is living. The going market prices for construction materials will be determined. Alternatively, compensation will be paid in-kind for the replacement cost without depreciation of the structure. The project will survey these prices for administrative purposes on an ongoing basis.

Compensation will be made for structures that are:

- Abandoned because of relocation or resettlement of an individual or household,
- Directly damaged by construction activities.

Replacement values will be based on:

- Drawings of individual’s house and all its related structures and support services,
- Average replacement costs of different types of household buildings and structures based on collection of information on the numbers and types of materials used to construct different types of structures (e.g. bricks, rafters, bundles of straw, doors etc.),
- Prices of these items collected in different local markets,
- Costs for transportation and delivery of these items to acquired/replacement land or building site,
- Estimates of construction of new buildings including labor required.

### COMPENSATION FOR BUILDINGS AND STRUCTURES

<table>
<thead>
<tr>
<th>Item</th>
<th>Example</th>
</tr>
</thead>
<tbody>
<tr>
<td>House</td>
<td>Raw or Baked brick&lt;br&gt;Straw or tin roof&lt;br&gt;Varying sizes (small, medium large)</td>
</tr>
<tr>
<td>Kitchen</td>
<td>Open, closed</td>
</tr>
<tr>
<td>Stables/sheds/pens</td>
<td>Cattle, goat, donkey, sheep, other</td>
</tr>
<tr>
<td>Coops</td>
<td>Chicken, duck, other</td>
</tr>
<tr>
<td>Fence</td>
<td>Straw/poles (per unit poles &amp; mat), raw and/or baked brick/cement blocks (per 1-m length)</td>
</tr>
<tr>
<td>Private Bathing</td>
<td>-</td>
</tr>
<tr>
<td>Latrine</td>
<td>Replacement latrines will be similar to those currently operational and financed by the bank or other donor agencies at health centers, schools.</td>
</tr>
<tr>
<td>Open well</td>
<td>Internally lined with concrete rings and provided with a hand driven pump.</td>
</tr>
<tr>
<td>Storage building</td>
<td>Cement/sand block walls with thatched roof on z-profiled metal sheets.</td>
</tr>
<tr>
<td>Sun Screen open huts/shades</td>
<td>Similar to those replaced, on thatched roof on wood poles.</td>
</tr>
</tbody>
</table>

**Compensation for Sacred Sites**

This policy does not permit the use of land that is defined to be cultural property by the Banks Safeguards OP 4.11. Sacred sites include but not restricted only to; altars, initiation centers, ritual sites, tombs and cemeteries. It includes other such sites or places/features that are accepted by local laws (including customary), practice, tradition and culture as sacred. To avoid any possible conflicts between individuals and/or communities/homesteads/chieftoms the use of sacred sites for any project activity, is **not** permitted under this project.

**Compensation for vegetable gardens and beehives**

These are planted with vegetable and ingredients for daily use. Until a replacement garden starts to bear, the family displaced (economically or physically) as a result of the project land needs will have to purchase these items in the market. The replacement costs therefore, will be calculated based on the average amount that an average town dweller spends on buying these items for one year per adult from the local market.

Beehives are placed in various locations in the bush by some individuals that specialize in honey gathering. If such hives would be disturbed by the project activities, or access to hives is denied, beekeepers can move them, and the bees will adapt to the new locations. Beekeepers would be compensated by the value of one season’s production costs of honey for each hive that is moved and any reasonable costs associated with moving the hive.

**Compensation for Horticultural, Floricultural and Fruit trees**

With, Namibia’s highly variable weather patterns, water costs and the fact that much of the land is not suitable for growing fruits, communal areas are sparsely populated with certain types of fruit trees.
Where they exist on affected land the following example, on Mango trees for instance will serve as a guide on how to value fruit trees and other trees of nutritional, medicinal and other significant economic value.

They are primarily important as a source of:
- Subsistence food for families
- Cash produce that contribute to the local and export economy
- Petty market income in some areas, and
- Shade (in the case of mango and some guava trees).
- Traditional medicinal value.

Given their significance to the local subsistence economy, which this project intends to positively impact, fruit trees will be compensated on a combined replacement/market value. Fruit trees used for commercial purposes will be compensated at market value based on historical production records. If households chose to resettle, they will be compensated for the labor invested in the trees they leave behind, because they will continue to own the trees left behind under customary rights. It is not uncommon for individuals to own trees in other villages in which they formally lived and, in some cases, to continue to harvest fruit from those trees for subsistence purposes and/or sale to traders. If a household/individual chooses to transfer ownership of the trees, transfer costs will be paid in addition to labor costs. The compensation rate will be based on information obtained from the socio-economic study. From this study, a compensation schedule for guava and mango trees can be developed incorporating the following goals:

- Replace subsistence Fruit (e.g. guava/mango) production yields as quickly as possible.
- Provide subsistence farmers with trees to extend the number of months of the year during which the fruit (e.g. guavas/mangoes) are produced and can be harvested as a supplemental source of food for their families during their “hungry season”.
- Provide farmers with the opportunity to derive additional production income from trees bearing more valuable fruits at off-season periods.
- Provide cash payments to farmers to replace pre-project income derived from the sale of excess guava or mango production until replacement trees produce the equivalent (or more) in projected cash income.

The compensation schedule is based on providing a combination of new grafted and local trees to farmers, as well as cash payments to offset lost yearly income. The schedule could assume the following (the figures in N$ (x no.) to be determined in the socio-economic study):

<table>
<thead>
<tr>
<th>Local Fruit Trees, e.g. Guava/ Mangoes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estimated Avg. Fruit Yield (kg) of Mature tree</td>
</tr>
<tr>
<td>Estimated Yield used</td>
</tr>
<tr>
<td>Market Price,</td>
</tr>
<tr>
<td>- Height of harvest season (March/April)</td>
</tr>
<tr>
<td>- End of season (late May)</td>
</tr>
<tr>
<td>Price used as basis of this estimate</td>
</tr>
<tr>
<td>Years to Production</td>
</tr>
<tr>
<td>Years to Maximum Production</td>
</tr>
<tr>
<td>Costs of Sapling</td>
</tr>
</tbody>
</table>
## Grafted Fruit Trees, e.g. Mangoes

<table>
<thead>
<tr>
<th>Estimated Avg. Fruit Yield (kg) of Mature tree</th>
<th>800 to 1,300 kg/year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estimated Yield used</td>
<td>Almost entire yield due to market value</td>
</tr>
<tr>
<td>Market Price, (varies according to variety)</td>
<td>N$/kg</td>
</tr>
<tr>
<td>• Height of harvest season (June/September)</td>
<td></td>
</tr>
<tr>
<td>Price used as basis of this estimate</td>
<td>Price per fruit or sac (100kg) as quoted by growers</td>
</tr>
<tr>
<td>Years to Production</td>
<td>Four to five</td>
</tr>
<tr>
<td>Years to Maximum Production</td>
<td>Eight</td>
</tr>
<tr>
<td>Costs of Sapling</td>
<td>N$, not locally available</td>
</tr>
</tbody>
</table>

### Proposed Schedule for Fruit (e.g. Guava or Mango) Trees Cut Down

<table>
<thead>
<tr>
<th>Type/Age of Tree</th>
<th>Est. Years</th>
<th>In-kind replacement for Local Guava and Mangoes</th>
<th>Credits/Financial Support.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sapling Trees planted after project cut-off date in area will not be eligible for compensation</td>
<td>0-1</td>
<td>Deliver to Farmer:</td>
<td>N$</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Choice of two guava or mango trees</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(local and/or improved grafted)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Supplies: fencing to protect</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Tree, a bucket for watering, and a Spade</td>
<td></td>
</tr>
<tr>
<td>Sapling/Young Tree First minor production 12-50 fruits occurs about age 4-5</td>
<td>1-6</td>
<td>Deliver to Farmer:</td>
<td>Equivalent of X no. N$ in credits or other financial support for labor invested in planting, fencing, and watering, made in one payment.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Choice of two guava or mango trees</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(local and/or improved grafted)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Supplies: fencing to protect</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Tree, a bucket for watering, and a Spade</td>
<td></td>
</tr>
<tr>
<td>Guava/Mango Trees Fruit Producing</td>
<td>6-30+</td>
<td>Deliver to farmer:</td>
<td>Equivalent of X no. N$ in credits or other financial support for labor invested in planting, fencing, and watering, made in one payment.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Choice of two guava or mango trees</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(local and/or improved grafted)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Supplies: fencing to protect</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Tree, a bucket for watering, and a Spade</td>
<td></td>
</tr>
<tr>
<td>Mature Trees – Low or Non- Fruit Producing</td>
<td>30+</td>
<td>Same as for mature trees above</td>
<td>Same as above</td>
</tr>
</tbody>
</table>

No compensation will be paid for minor pruning of trees. Compensation for removal of limbs will be prorated on the basis of the number of square metres of surface area removed. The total surface area of the tree will be calculated using the following formula: \((\frac{1}{2} \text{ diameter of canopy})^2 \times 3.14\).

### Other domestic fruit and shade trees.

These trees have recognized local market values, depending upon the species and age. Individual compensation for wild trees "owned" by individuals which are located in lands as defined in this policy will be paid. Note that wild, productive trees belong to the community when they occur in the true bush as opposed to a fallow land. These trees will be compensated for under the umbrella of the village or community compensation.
No compensation will be paid for minor pruning of trees. Compensation for removal of limbs will be prorated on the basis of the number of square metres of surface area removed. The total surface area of the tree will be calculated using the following formula: 
\[
\left(\frac{1}{2} \text{diameter of canopy}\right)^2 \times 3.14.
\]


Compensation (and resettlement) will be funded like any other activity eligible under the projects' administrative and financial management rules and manuals.

Funding would be processed and effected through the Management Committees financial processing arrangements.

The compensation process which will involve several steps would be in accordance with the individual management committee’s resettlement and compensation plans, significantly:

- Public Participation with the PAPs would initiate the compensation process as part of an ongoing process that would have started at the planning stages when the technical designs are being developed and at the land selection/screening stage. This would ensure that no affected individual/household is simply “notified” one day that they are affected in this way. Instead, this process seeks their involvement and wishes to involve PAPs in a participatory approach with the project, from the beginning as outlined in item k. of this report.

- Notification of land resource holders – incases where there is clearly no identified owner/user, the respective regional land boards and the traditional leaders having been involved in identifying the land that the management committee’s require will notify the community leaders and representatives who will help to identify and locate the land users. These leaders and representatives will also be charged with the responsibility to notify their members about the established cut-off date and its significance. The user(s) will be informed through both a formal notification in writing and, for as many people as are illiterate, by verbal notification delivered in the presence of the traditional leaders or their representative. In addition, representatives of traditional leaders, religious leaders, other elders and individuals who control pastoral routes, fishing areas, wild trees, or beehives, hunting areas will accompany the survey teams to identify sensitive areas.

- Documentation of Holdings and Assets – the regional land board and traditional leaders and officials of the management committee will arrange meetings with affected individuals to discuss the compensation process. For each individual or household affected, officials of the management committee completes a compensation dossier containing necessary personal information on, the affected party and those that s/he claims as household members, total land holdings, inventory of assets affected, and information for monitoring their future situation.
This information is confirmed and witnessed by regional land board, traditional leaders or their representatives. Dossiers will be kept current and will include documentation of lands surrendered. This is necessary because it is one way in which an individual can be monitored over time. All claims and assets will be documented in writing.

- Agreement on Compensation and Preparation of Contracts – All types of compensation are to be clearly explained to the individual and households involved. The respective management committee draws up a contract listing all property and land being surrendered, and the types of compensation (cash and/or in-kind) selected. A person selecting in-kind compensation has an order form which is signed and witnessed. The compensation contract and the grievance redress mechanisms are read aloud in the presence of the affected party and the representative of the regional land board and the traditional leaders prior to signing.

- Compensation Payments – All handing over of property such as land and buildings and compensation payments will be made in the presence of the affected party, the traditional leaders and their officials and representative of the local government administration.

Community Compensation Payments

Community compensation will be in-kind only for a community as a whole in the form of reconstruction of the facility to at least the same standard or equivalent better standard required by local planning regulation. Examples of community compensation include;

- School Building (public or religious)
- Public Toilets
- Well or Pump
- Market Place
- Road
- Storage warehouse

Community compensation may in itself require land take and people may be affected, thus a change of impacts which will be compensated for.

I. A DESCRIPTION OF THE IMPLEMENTATION PROCESS, LINKING RESETTLEMENT IMPLEMENTATION TO CIVIL WORKS.

Before any project activity is implemented, PAPs will need to be compensated in accordance with the resettlement policy framework. For activities involving land acquisition or loss, denial or restriction to access, it is further required that these measures include provision of compensation and of other assistance required for relocation, prior to displacement, and preparation and provision of resettlement sites with adequate facilities, where required. In particular, the taking of land and related assets may take place only after compensation has been paid and, where applicable, resettlement sites and moving allowances have been provided to displaced persons. For project activities requiring relocation or loss of shelter, the policy further requires that measures to assist the displaced persons are implemented in accordance with the
individual resettlement plan of action. For project activities that restrict access to or income from the use of natural resources, alternative arrangements to secure equal or greater resources through income schemes, alternative assignment of resources, the domestic planting of medicinal plants if possible, and other schemes should be in place before restrictions are fully enforced.

The measures to ensure compliance with this policy directive would be included in the resettlement plans that would be prepared for each land involving resettlement or compensation.

Specifically, precise details must be provided in Section q. Implementation Schedule (see page 13) for each RAP or Section e. Arrangements for Monitoring and Implementation for each ARAP that is prepared by the management committee. In both of these sections the schedule for the implementation of activities agreed to between the management committee and the PAPs must be included, such as target dates for start and completion of civil works, timetables for transfers of completed civil works to PAPs, dates of possession of land that PAPs are using (this date must be after transfer date for completed civil works to PAPs and payments of all compensation), and how these activities are linked to the implementation of the overall sub project.

When the management committee present their resettlement and compensation plans to their regional Land Board and MET for approval, part of the screening process that would use to approve recommended land would be to confirm that the resettlement plans contain acceptable measures that link resettlement activity to civil works in compliance with this policy. The timing mechanism of these measures would ensure that no individual or affected household would be displaced (economically or physically) due to civil works activity before compensation is paid and resettlement sites with adequate facilities are prepared and provided for to the individual or homestead affected. Once the resettlement plan is approved by the local and national authorities, the resettlement plan should be sent to the World Bank for final review and approval.

J. A DESCRIPTION OF GRIEVANCE REDRESS MECHANISMS.

At the time that the individual resettlement plans are approved and individual compensation contracts are signed, affected individuals and homesteads would have been informed of the process for expressing dissatisfaction and to seek redress. The grievance procedure will be simple, administered as far as possible at the local levels to facilitate access, flexible and open to various proofs taking into cognizance the fact most people are illiterate requiring a speedy, just and fair resolution of their grievances.

The management committee being a party to the contract would not be the best office to receive, handle and rule on disputes. Therefore, taking these concerns into account, all grievances concerning non-fulfillment of contracts, levels of compensation, or seizure of assets without compensation should be addressed to the Chief/Traditional Leader for resolution. As is normal practice under customary law, all disputes in a chiefdom are solved by the chief after a thorough investigation of the facts using the services of his officials. Chiefs and their agents may need additional training to understand that the losses sustained by PAPs may be additional to those that are compensable under Namibian law, but that they can use their own methods of evidence, witnessing, and argument in settling such cases.
If the verdict rendered by the chief is not acceptable to either the individual affected or the management committee, then the parties in their compensation contract would have agreed that the matter would be appealed to an Independent Tribunal, appointed by the Minister of Lands (as required by Communal Land Reform Act) whose decision would be final and binding on the parties.

Notwithstanding that the grievance redress mechanism accepts that the compensation and resettlement plans will be (contracts) binding under statute, but it also recognizes that customary law is the law that governs land administration and tenure in the rural/communal areas and is what most Namibians living in these areas are used to and understand.

The grievance redress mechanism is designed with the objective of solving disputes at the earliest possible time which will be in the interest of all parties concerned and therefore implicitly discourages referring such matters to the Tribunal for resolution which would otherwise take a considerably longer time.

Also, in the local cultures it takes people time to decide that they are aggrieved and want to complain. Therefore, the grievance procedures will give people up to the end of the next full agricultural season after surrendering their assets to set forth their case.

All attempts would be made to settle grievances. Those seeking redress and wishing to state grievances would do so by notifying their chief. The chief will inform and consult with the management committee, the regional Land Board, the MET, homestead/household representatives and leaders and other records to determine a claims validity. If valid, the chief will notify the complainant and s/he will be settled. If the complainant's claim is rejected, then the matter will be brought before the Tribunal for settlement. The decision of the Tribunal would be final and all such decisions must be reached within a full growing season after the complaint is lodged.

If a complaint pattern emerges, the management committee, the regional Land Board and the MET with the chiefs will discuss possible remediation. The local leaders will be required to give advice concerning the need for revisions to procedures. Once they agree on necessary and appropriate changes, then a written description of the changed process will be made. The management committee, the regional land board and the MET and the chiefs and homestead representatives and leaders will be responsible for communicating any changes to future potential PAPs when the consultation process with them begins.


The estimate of the overall cost of resettlement and compensation would be determined during the socio-economic study. The management committees would have to finance the resettlement compensation because they are the parties who would be impacting livelihoods. At this stage, it is not possible to estimate the likely number of people who may be affected since the technical designs/details have not yet been developed and land needs have not yet been identified. When these locations are
known, and after the conclusion of the site specific socio-economic study, information on specific impacts, individual and household incomes and numbers of affected people and other demographic data would be available, thus facilitating the preparation of a detailed and accurate budget for resettlement and compensation. The management committee will prepare the resettlement budget and will finance this budget through the administrative and financial management rules and manuals like any other activity eligible for payment under the project. This budget will be subject to the approval of the World Bank.

At this stage however, all that can be reasonably and meaningfully prepared is an indicative budget, highlighting key features that the budget must contain, inter alia, as follows;

<table>
<thead>
<tr>
<th>#</th>
<th>Item</th>
<th>Costs (in NS)*</th>
<th>Assumptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Compensation for loss of Land</td>
<td>/hectare</td>
<td>For land acquisition purposes, based on cost realized in projects involving similar issues in Namibia.</td>
</tr>
<tr>
<td>2</td>
<td>Compensation for loss of Crops</td>
<td>/hectare of farm lost</td>
<td>Includes costs of labor invested and average of highest price of staple food crops as per methods described in Section G of this RPF.</td>
</tr>
<tr>
<td>3</td>
<td>Compensation for loss of access to pastoralists</td>
<td>N/a</td>
<td>Those affected would be provided with shared access, or alternate routes (decision agreed through consultation and participation of all)</td>
</tr>
<tr>
<td>4</td>
<td>Compensation for loss of access to fishing resources, wild foods, medicinal plants, fuelwood, economic grasses, etc.</td>
<td></td>
<td>Data provided from revised socio-economic study will determine market values of such products.</td>
</tr>
<tr>
<td>5</td>
<td>Compensation for Buildings and Structures</td>
<td></td>
<td>This compensation would be in-kind. These new buildings would be built and then given to those affected. Cost based on basic housing needs for a family of ten, including house with four bedrooms, ventilated pit latrines, outside kitchen and storage.</td>
</tr>
<tr>
<td>6</td>
<td>Compensation for Trees</td>
<td>/year/tree</td>
<td>Based on methods described on page 32 of this RPF for compensation for trees.</td>
</tr>
<tr>
<td>7</td>
<td>Cost of Relocation Assistance/Expenses</td>
<td>/household</td>
<td>This cost is to facilitate transportation, etc.</td>
</tr>
<tr>
<td>8</td>
<td>Cost of Restoration of Individual Income</td>
<td></td>
<td>Assumed to be higher than the GDP/capita.</td>
</tr>
<tr>
<td>9</td>
<td>Cost of Restoration of Household Income</td>
<td></td>
<td>Through employment in Project Activities.</td>
</tr>
<tr>
<td>10</td>
<td>Cost of Training Farmers, pastoralists and other PAPs</td>
<td></td>
<td>This is a mitigation measure which seeks to involve those affected by the project activities. This figure represents a costs of around NS/person</td>
</tr>
</tbody>
</table>

*These costs are to be confirmed during the socio-economic study and revised at the time the payments are made.*
L. A DESCRIPTION OF MECHANISMS FOR CONSULTATIONS WITH, AND PARTICIPATION OF, DISPLACED (ECONOMICALLY OR PHYSICALLY) PERSONS IN PLANNING, IMPLEMENTATION, AND MONITORING.

Public consultation and participation are essential because they afford potential PAPS the opportunity to contribute to both the design and implementation of the project activities and reduce the likelihood for conflicts between and among PAPs and the management committees. The way land administration is undertaken in Namibia today based on long standing traditional and cultural practices and land reform programs discussed earlier, makes public consultation with the rural communities, indispensable. Furthermore, as the rural communities are the intended ultimate beneficiaries of this project, effective and close consultation with them is a pre-requisite for project success. In recognition of this, particular attention would be paid to public consultation with potentially affected individuals/households/homesteads when resettlement and compensation concerns are involved.

Public consultation will take place at the inception of the planning stages when the potential land areas are being considered. The participation strategy would evolve around the provision of a full opportunity for involvement. Therefore, as a matter of strategy, public consultation would be an on-going activity taking place through out the entire project cycle. For example, public consultation would also occur during the preparation of the (i) the socio-economic study, (ii) the resettlement and compensation plan and (iv) the environmental impact assessment and (v) during the drafting and reading of the compensation contract.

Public participation and consultation would take place through meetings, radio programs, request for written proposals/comments, filling in of questionnaires/ application forms, public readings and explanations of project ideas and requirements, making public documents available at the National, local and homestead levels at suitable locations like the official residences/offices of local chiefs/elders. These measures would take into account the low literacy levels prevalent in these rural communities by allowing enough time for responses and feedback.

Notwithstanding, the best guarantor for public interest is the chiefs and other local leaders who are responsible members of their local communities and can inadvertently be part of the potentially displaced (economically or physically) individuals/households either in part or in whole.

Monitoring of this process would be through the village chief as part of the individual resettlement and compensation plans and overall the monitoring and evaluation mechanism of the entire project. This requirement is line with the Bank policy on disclosure.
M. ARRANGEMENTS FOR MONITORING BY THE IMPLEMENTATION AGENCY AND, IF REQUIRED, BY INDEPENDENT MONITORS.

The arrangements for monitoring would fit the overall monitoring plan of the entire ICEMA which would be through the Ministry of Environment and Tourism (MET).

The ICEMA will institute an administrative reporting system that:

(a) alerts project authorities to the necessity for land acquisition in a management committee’s business plan and its technical requirements,
(b) provides timely information about the valuation and negotiation process,
(c) reports any grievances that require resolution, and
(d) documents timely completion of project resettlement obligations (i.e. payment of the agreed-upon sums, construction of new structures, etc.) for all permanent and temporary loses, as well as unanticipated, additional construction damage.

Consistent with the Environmental and Social Management Framework/Assessment, the management committee and regional land boards would be responsible for periodically transferring the information compiled “on the ground” to the MET, so that it is alerted in a timely manner to any difficulties arising at the local level.

The objective will be to make a final evaluation in order to determine;

(i) if affected people have been paid in full and before implementation of the sub project activities,

(ii) if the people who were affected by the project have been affected in such a way that they are now living a higher standard than before, living at the same standard as before, or they are actually poorer than before.

A number of indicators would be used in order to determine the status of affected people (land being used compared to before, standard of house compared to before, level of participation in project activities compared to before, how many kids in school compared to before, health standards, etc). Therefore, the resettlement and compensation plans will set two major socio-economic goals by which to evaluate its success:

- Affected individuals, households, and communities are able to maintain their pre-project standard of living, and even improve on it; and
- The local communities remain supportive of the project.
- The absence or prevalence of conflicts

In order to access whether these goals are met, the resettlement and compensation plans will indicate parameters to be monitored, institute monitoring milestones and provide resources necessary to carry out the monitoring activities.

The following parameters and verifiable indicators will be used to measure the resettlement and compensation plans performance;
• Questionnaire data will be entered into a database for comparative analysis at all levels of Government,
• Each individual will have a compensation signed dossier recording his or her initial situation, all subsequent project use of assets/improvements, and compensation agreed upon and received.
• The Management Committees will maintain a complete database on every individual impacted by the project land use requirements including relocation/resettlement and compensation, land impacts or damages
• Percentage of individuals selecting cash or a combination of cash and in-kind compensation,
• Proposed use of payments
• The number of contention cases out of the total cases
• The number of grievances and time and quality of resolution
• Ability of individuals and families to re-establish their pre-displacement activities, land and crops or other alternative incomes
• Pastoral and Agricultural productivity of new lands
• Wildlife Conservation, eco-tourism activity on acquired land as per plan.
• Number of impacted locals employed by the management committees
• Seasonal or inter annual fluctuation on key foodstuffs
• General relations between the project and the local communities

The following indicators will be used to monitor and evaluate the implementation of resettlement and compensation plans;

<table>
<thead>
<tr>
<th>VERIFIABLE INDICATORS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Monitoring</strong></td>
</tr>
<tr>
<td>Outstanding compensation or resettlement contracts not completed before next agricultural season.</td>
</tr>
<tr>
<td>Communities unable to set village-level compensation after two years.</td>
</tr>
<tr>
<td>Grievances recognized as legitimate out of all complaints lodged.</td>
</tr>
<tr>
<td>Pre-project production and income (year before land used) versus present production and income of resettlers, off-farm-income trainees, and users of improved agricultural techniques.</td>
</tr>
<tr>
<td>Pre-project production versus present production (crop for crop, land for land).</td>
</tr>
<tr>
<td>Pre-project income of vulnerable individuals identified versus present income of vulnerable groups</td>
</tr>
</tbody>
</table>
Financial records will be maintained by the management committees, the regional Land Boards and the MET, to permit calculation of the final cost of resettlement and compensation per individual or household. Each individual receiving compensation will have a dossier containing:

- Individual biological information,
- Number of people s/he claims as household/homestead dependents
- Amount of land available to the individual or household when the dossier is opened.

Additional information will be acquired for individuals eligible for resettlement and/or compensation:

- Level of income and of production
- Inventory of material assets and improvements in land, and
- Debts.

Each time land is used/acquired by a management committee, the dossier will be updated to determine if the individual or household/homestead is being affected to the point of economic non-viability and eligibility for compensation/resettlement or its alternatives. These dossiers will provide the foundation for monitoring and evaluation, as well as documentation of compensation agreed to, received, and signed for.

It is normal that some compensation procedures and rates may require revision at some time during the project cycle. The management committees, the regional land boards and the MET, will implement changes through the Change Management Process in the Monitoring and Evaluation manuals of the project (PIM or Project Implementation Manual), which will require feedback from:

- Indicators monitored by the local regional governments to determine whether goals are being met, and
- A grievance procedure for the local community to express dissatisfaction about implementation of compensation and resettlement.

This framework is suggesting that the office of the Regional Governments are structured into the whole M&E component of the project. This would take the form of giving the Regional Government the mandate to carry out independent monitoring of the implementation of the resettlement and compensation plans at periodic intervals of quarterly or half yearly (as circumstances dictate) during the project life. Their report would then be sent to the MET, regional Land Boards and the management committees and become part of the official documents of the project.
Annex A: Template for Preparing Resettlement and Compensation Plans (RAPs).

This template is extracted from OP 4.12 Annex A which can also be found on the Banks website at www.worldbank.org.

The scope and level of detail of the resettlement plan vary with magnitude and complexity of resettlement. The plan is based on up-to-date and reliable information about (a) the proposed resettlement and its impacts on displaced persons and other adversely affected groups, and (b) the legal issues involved in resettlement. The resettlement plan covers elements, as relevant. When any element is not relevant to project circumstances, it should be noted in the resettlement plan.

**Description of the sub project:** General description of the sub project and identification of sub project area.

**Potential Impacts:** Identification of (a) the sub project component or activities that give rise to resettlement, (b) the zone of impact of such component or activities, (c) the alternatives considered to avoid or minimize resettlement; and (d) the mechanisms established to minimize resettlement, to the extent possible, during project implementation.

**Objectives:** The main objectives of the resettlement program.

**Socio-economic studies:** The findings of socio-economic studies to be conducted in the early stages of project preparation and with the involvement of potentially displaced people, including:

(a) the results of a census survey covering:
   (i) current occupants of the affected area to establish a basis for design of the resettlement program and to exclude subsequent inflows of people from eligibility for compensation and resettlement assistance.
   (ii) standard characteristics of displaced households, including a description of production systems, labor, and household organization; and baseline information on livelihoods (including, as relevant, production levels and income derived from both formal and informal economic activities) and standards of living (including health status) of the displaced population
   (iii) the magnitude of the expected loss, total or partial, of assets, and the extent of displacement, physical or economic
   (iv) information on vulnerable groups or persons, for whom special provisions may have to be made; and
   (v) provisions to update information on the displaced people's livelihoods and standards of living at regular intervals so that the latest information is available at the time of their displacement.
(b) Other studies describing the following:

(i) Land tenure and transfer systems, including an inventory of common property natural resources from which people derive their livelihoods and sustenance, non-title-based usufruct systems (including fishing, grazing, or use of forest areas) governed by local recognized land allocation mechanisms, and any issues raised by different tenure systems in the sub project area.

(ii) The patterns of social interaction in the affected communities, including social support systems, and how they will be affected by the sub project.

(iii) Public infrastructure and social services that will be affected; and

(iv) Social and cultural characteristics of displaced communities, including a description of formal and informal institutions (e.g. community organizations, ritual groups, non-governmental organizations (NGO's) that may be relevant to the consultation strategy and to designing and implementing the resettlement activities.

Legal Framework: A description of any legal circumstances in the subproject that are substantially different and require measures or the application of laws different from those described in this RPF.

Institutional Framework: The findings of any analysis of the institutional framework applicable to the subproject covering:

(a) the identification of agencies responsible for resettlement activities and NGOs that may have a role in project implementation, if different from those defined in this RPF;
(b) an assessment of the institutional capacity of the agencies and NGOs to be involved in the subproject; and
(c) any steps that are proposed to enhance the institutional capacity of agencies and NGOs responsible for resettlement implementation.

Eligibility: Definition of displaced persons and criteria for determining their eligibility for compensation and other resettlement assistance, including relevant cut-off dates.

Valuation of and compensation for losses: The methodology to be used in valuing losses to determine their replacement cost; and a description of the proposed types and levels of compensation under local law and such supplementary measures as are necessary to achieve replacement cost for lost assets.

Resettlement Measures: A description of the packages of compensation and other resettlement measures that will assist each category of eligible displaced persons to achieve the objectives of OP 4.12. In addition to being technically and economically feasible, the resettlement packages should be compatible with the cultural preferences of the displaced persons, and prepared in consultation with them.

Site selection, site preparation, and relocation: Alternative relocation sites considered and explanation of those selected, covering,
(a) institutional and technical arrangements for identifying and preparing relocation sites, whether rural or urban, for which a combination of productive potential, locational advantages, and other factors is at least comparable to the advantages of the old sites, with an estimate of the time needed to acquire and transfer land and ancillary resources,
(b) any measures necessary to prevent land speculation or influx of eligible persons at the selected sites,
(c) procedure for physical relocation under the project, including timetables for site preparation and transfer; and
(d) legal arrangements for regularizing tenure and transferring titles to resettlers.

**Housing, infrastructure, and social services:** Plans to provide (or to finance resettler's provision of) housing, infrastructure (e.g. water supply, feeder roads), and social services to host populations; any necessary site development, engineering, and architectural designs for these facilities.

**Environmental protection and management.** A description of the boundaries of the relocation area; and an assessment of the environmental impacts of the proposed resettlement and measures to mitigate and manage these impacts (coordinated as appropriate with the environmental assessment of the main investment requiring the resettlement).

**Community Participation:** A description of the strategy for consultation with and participation of resettlers and host communities, including
(a) a description of the strategy for consultation with and participation of resettlers and hosts in the design and implementation of resettlement activities,
(b) a summary of the views expressed and how these views were taken into account in preparing the resettlement plan,
(c) a review of the resettlement alternatives presented and the choices made by displaced persons regarding options available to them, including choices related to forms of compensation and resettlement assistance, to relocating as individual families or as parts of pre-existing communities or kinship groups, to sustaining existing patterns of group organization, and to retaining access to cultural property (e.g. places of worship, pilgrimage centers, cemeteries); and
(d) institutionalized arrangements by which displaced people can communicate their concerns to project authorities throughout planning and implementation, and measures to ensure that such vulnerable groups as indigenous people, ethnic minorities, landless, and women are adequately represented.

**Integration with host populations:** Measures to mitigate the impact of resettlement on any host communities, including,
(a) consultations with host communities and local governments,
(b) arrangements for prompt tendering of any payment due the hosts for land or other assets provided to resettlers,
(c) arrangements for addressing any conflict that may arise between resettlers and host communities, and
(d) any measures necessary to augment services (e.g. education, water, health, and production services) in host communities to make them at least comparable to services available to resettlers.

**Grievance procedures:** Affordable and accessible procedures for third-party settlement of disputes arising from resettlement, such grievance mechanisms should take into account the availability of judicial recourse and community and traditional dispute settlement mechanisms.

**Organizational responsibilities:** The organizational framework for implementing resettlement, including identification of agencies responsible for delivery or resettlement measures and provision of services; arrangements to ensure appropriate coordination between agencies and jurisdictions involved in implementation; and any measures (including technical assistance) needed to strengthen the implementing agencies capacity to design and carry out resettlement activities; provisions for the transfer to local authorities or resettlers themselves of responsibility for managing facilities and services provided under the project and for transferring other such responsibilities from the resettlement implementing agencies, when appropriate.

**Implementation Schedule:** An implementation schedule covering all resettlement activities from preparation through implementation, including target dates for the achievement of expected benefits to resettlers and hosts and terminating the various forms of assistance. The schedule should indicate how the resettlement activities are linked to the implementation of the overall project.

**Costs and budget:** Tables showing itemized cost estimates for all resettlement activities, including allowances for inflation, population growth, and other contingencies; timetable for expenditures; sources of funds; and arrangements for timely flow of funds, and funding for resettlement, if any, in areas outside the jurisdiction of the implementing agencies.

**Monitoring and evaluation:** Arrangements for monitoring of resettlement activities by the implementing agency, supplemented by independent monitors as considered appropriate by the Bank, to ensure complete and objective information; performance monitoring indicators to measure inputs, outputs, and outcomes for resettlement activities; involvement of the displaced persons in the monitoring process; evaluation of the impact of resettlement for a reasonable period after all resettlement and related development activities have been completed; using the results of resettlement monitoring to guide subsequent implementation.