

Draft ESMF**Volume 2****PPAP COMPENSATION POLICY FRAMEWORK****1. Project Description**

The development objective of the PPAP is: *To improve the performance and the sustainability of value chains in cocoa- and coffee-producing areas, in order to improve the livelihoods of smallholder cocoa and coffee producers.* This would be achieved by: strengthening industry coordination and institutions, facilitating linkages between smallholder farmers and agribusiness for the provision of technologies and services, and through the provision of critical market access infrastructure.

Project support will be initially focused in the main producing areas for the two industries to be supported, namely East New Britain and the Autonomous Region of Bougainville for cocoa and the Eastern Highlands, Simbu and Western Highlands Provinces for the coffee industry. These objectives are to be realized through three components:

Component 1, Institutional strengthening and industry coordination: This component would: (a) build the capacity of industry coordination committees to support sector dialogue and policy development in the cocoa and coffee subsectors; (b) strengthen the information management systems to inform policy development and stakeholder decisions in the coffee and cocoa industries; (c) strengthen quality promotion in the coffee and cocoa industries and support, where appropriate the adoption of sustainability practices; and (d) support project management and M&E functions in the PMUs and the Project Coordinating Unit.

Component 2, Productive Partnerships: Through productive partnerships with a range of commercial and not-for-profit organisations, this component would: (a) finance result-oriented partnerships in cocoa-growing areas to increase smallholder cocoa productivity, quality, and sustainability and improve cocoa-farming systems and (b) finance result-oriented partnerships in coffee-growing areas to increase smallholder coffee productivity, quality, and sustainability and improve coffee farming systems. Examples include specialized training, certification, the production of improved planting material through nurseries and budwood gardens, replanting, diversification of farming systems, and investments to improve processing and storage facilities.

It is expected that there will be up to 50 partnerships implemented leading to up to 15,000 smallholder cocoa households receiving support under the project and some 10,000 to 15,000 smallholder coffee households being supported to improve the productivity and quality of their product.

Component 3, Market Access Infrastructure: In response to the priorities identified by the partnerships established in Component 2, this component would: (a) finance the identification and selection of priority investments in support of Component 2 partnerships and (b) finance the related investments in infrastructure rehabilitation and maintenance.

Component 2 project activities will be voluntary in nature and will occur on land already held by individuals. Component 3 infrastructure activities will focus on improving transport links between the farm gate and processors or other buyers in the coffee and cocoa sub-sectors and as such will focus on roads (and other small market access infrastructure such as jetties) between the farm gate and the current trafficable network. At this level of the transport networks, virtually all infrastructure is located on customary land that landowners have donated to the state for the express purpose of providing transport links to their community. Component 3 sub-projects may possibly result in temporary land use, minor land acquisition or damage of crops and economic trees.

Any temporary land use and minor land acquisition will, however, be voluntary and based on informed consent and choice of the community and the project affected people.

In the event that land acquisition is required (due to realignment of roads) or assets are destroyed the processes outlined below will be followed in compliance with the World Bank's Operational Policy on Involuntary Resettlement. As the identity, location and scope of all Component 2 and 3 project activities will only be defined after the productive partnerships as detailed in Component 2 are agreed the zone of impact of subprojects cannot be defined at this stage and thus it is not possible to prepare a compensation plan at project level. Compensation plans will be prepared at the subproject level following the provisions of the Compensation Policy Framework.

2. Project Context

Project activities will occur primarily on customary land (Component 2 and 3) and occasionally on leasehold land (for Component 2).

Customary land in PNG generally refers to land that is under the communal ownership of traditional social and kinship groupings like tribes, clans, sub-clans and lineages. The constitution of PNG and the *Underlying Law Act 2000* recognize customary land tenure principles and practices, but as yet there is only a limited legal framework for dealings in land, primarily relating to the acquisition of land by the Government for public use and the formal registration of customary land by individuals.

Virtually all infrastructure at the level targeted by the project is located on customary land that landowners have donated to the state for the express purpose of providing transport links to their community.

In the project target areas, communal landowners had previously donated their land to the administration (State) in order to facilitate the construction of access roads to their communities. With improved market access, these communities planted coffee or cocoa on their communal land. During the late 1980s and 1990s, maintenance resources were directed towards other activities and the majority of these access roads to PPAP targeted coffee and cocoa growing communities fell into disrepair. Many are now untrafficable imposing considerable hardship on coffee and cocoa-growing households to get their product to market.

2.1 Project Impacts on Land

There are several areas of the PPAP activities (or subprojects under Component 2 and Component 3) that could possibly have impacts on land use that may lead to compensation claims, notably:

- ⌘ **Rehabilitation of existing minor road infrastructure.** In an effort to increase functional capacity of infrastructure or facilitate construction activities, areas adjacent to the road could be impacted. Agreements would need to be reached with landowners on land use and compensation paid for loss of food crops, tree crops or housing materials.
- ⌘ **Rehabilitation road works.** Road works could impact sites of social, sacred, religious, or heritage value. "Chance find" procedures would apply when those sites are identified during the design phase or during the actual construction period and the related subproject or activity will not be eligible for financing under the project.
- ⌘ **Access paths for intermediate transport means.** This may involve upgrading of existing walking tracks or new alignments on customary land that is not currently subject to any agreement for the use of that land. There is a potential for disputes to arise over the ownership of the land and the route of the track. The sub-project screening criteria will eliminate all intermediate transport subprojects subject to a customary land dispute. There is also some potential for compensation claims relating to the impact of intermediate transport means construction activities.

Any possibility of involuntary resettlement will exclude such sub-projects from project financing, so the only compensation claims to be addressed by the project will be limited to asset damage. It will not

involve more than 200 landowners and the loss of asset per landowner is expected to be less than 10 per cent of their total assets.

3. Existing Land Procedures

3.1 Land acquisition procedures

While the reality of the market access roads to be rehabilitated under the PPAP is one of customary land donated to the State as described above, it is a general policy of the Government of PNG that for any projects involving infrastructure development to be established on customary land, land must be acquired by the State under the Land Act (Chapter 185). To acquire the land means to purchase or buy the land from the traditional landowner under Section 15 of the *Land Act*. The risks involve high compensation demands and land disputes which will cause delays in project implementation, where the State may wrongly deprive a customary landowner of his land, and action can be taken against the State for wrongly occupation by the Law of Trespass.

In the unlikely event that project activities would require the purchase of customary land, the procedure is enforced under the *Land Act* by the Department of Lands & Physical Planning.¹ The procedures to acquire the customary land are as follows:

1. Format Land Application must be firstly submitted to Department of Lands and Physical Planning to determine the status of the land (i.e. Customary or State Land).
2. Department of Lands and Physical Planning then request its Regional Survey Offices to issue Survey Instruction or liaise with sponsoring Department, in this case the Department of Works to carry out the Survey work.
3. After completion of the Survey work, the Department of Lands and Physical Planning then issue Land Investigation Instruction to the Provincial Secretary of the Provincial Government Department concerned.
4. The Provincial Government upon receipt of the Instruction then undertakes Land Investigation.
5. The Land Investigation Report is compiled and submitted to Department of Lands and Physical Planning (or in some cases for mainly road projects under the Capital Works program), and the Department of Works (LAU) assists to compile the reports.
6. The Report is examined and if acceptable, then copies are submitted with the Survey plans to the Department of Provincial Affairs and Village Services to issue a Certificate of Alienability and to the Valuer General's Office for evaluation assessment of the Land and Improvements.
7. The Department of Lands and Physical Planning, upon receipt of the Certificate of Alienability and Valuation, then prepares Purchase/Lease documents and requests release of funds for land compensation payment. A Certificate of Alienability is a Certificate issued by the Secretary of Department of Provincial Affairs and Village Services to confirm that landowners have agreed to alienate (sell) their land to the State.
8. The Purchase/Lease documents together with cheque for payment are dispatched to the relevant Provincial Secretary for execution of payment.
9. Executed documents are returned to the Department of Lands and Physical Planning who issue new description number - Native Land Dealing (NLD). A Native Land Dealing number is issued to certify that the land is purchased and to confirm that State has ownership over the land before new land description (Portion number) is given.

¹ While the DLPP has a reputation for inconsistent performance in allocating and managing leasehold land, the high priority given to infrastructure works in PNG means that DLPP procedures to acquire land for this purpose are generally implemented efficiently and in a timely manner.

10. Finally, on issue of new description (Portion Number), the land application is then processed for issuance of Certificate Authorizing Occupancy (if for Government Departments) or application submitted to Land Board for granting of the lease (if for Statutory bodies or general public). Lease is defined as State lease obtained from the State for maximum of 99 years or less.

From step one to ten it takes approximately one year to purchase (buy) the land. If a land dispute occurs, however, it is likely to be delayed a further six months or more.

3.2 Improvement and damages compensation

In addition to land acquisition there are existing procedures to compensate traditional land owners for damage to assets on customary held land. These procedures are defined in the *Land Act* (Chapter 185). Landowners are eligible for compensation for damage to improvements on customary held land arising from development activities. Land owners are not eligible for compensation for damage to improvements built on alienated land. The following steps should be followed when compensating traditional landowners:

1. The Provincial Lands Officer will visit the site and document the scope of the damage and assess the status of the land.
2. The Provincial Lands Officer will identify the traditional landowner who is eligible for the compensation payment. Should a dispute arise amongst individuals over the identity of the traditional landowner the matter will be referred to the Land Court for determination.
3. Once the identity of the landowner and the status of the land are determined, the Provincial Lands Officer will value the damage using financial rates provided in the Land Act.
4. Full details of the claim and investigation performed by the Provincial Lands Officer is then sent to the National Department of Lands in Port Moresby for review and determination of the compensation payment details.
5. The GOPNG implementing agency will then make payments to the landowner in accordance with the Department of Lands determination. No construction work may begin without the landowners' approval.

3.3 Compliance with Bank requirements

The main areas where current GOPNG practice and policy does not comply with World Bank requirements are detailed below:

1. There is no provision in PNG system to provide special or additional assistance to vulnerable groups. PPAP will include measures to ensure that vulnerable groups are not adversely impacted by the project.
2. In practice payments to Project Affected People (PAPs) can be delayed for a considerable period. Any compensation to be provided through PPAP will be provided promptly.

4. Compensation Policy Framework

4.1 Project affected people (PAPs)

PAPs include people who may experience negative economic and social impacts caused by the project due to loss of garden crops, economic trees and other assets and loss of income or livelihoods resulting from the Project activities.

The World Bank's environmental and social safeguard policies are a cornerstone of its support to sustainable poverty reduction. The objective of these policies is to prevent and mitigate undue harm to people and their environment in the development process. These policies provide guidelines for World Bank and borrower staff in the identification, preparation, and implementation of programs and projects.

If the construction of infrastructure requires the acquisition of land and therefore physical relocation and economic displacement of people, then this may constitute a significant impact on PAPs. If such impacts, collectively characterized as involuntary resettlement, are not identified and adequately mitigated, some already vulnerable populations are likely to be further impoverished, *thereby undermining development objectives*.

4.2 Objectives and principles

As the PPAP will focus on rehabilitating existing assets rather than developing new infrastructure on 'greenfield sites' it is not expected that land acquisition will be required as the works will be limited to the areas currently occupied by the existing infrastructure.

While it is highly unlikely that the project will significantly damage food gardens as a result of infrastructure rehabilitation, observance of key principles will minimize any potential negative impacts of Project activities.

In line with the World Bank's Operational Policy on resettlement and taking into consideration customary law and structures, the Compensation Policy Framework for PPAP has the following principles and objectives:

1. Consultations with communities will be required as a first stage in sub-project preparation. These consultations will focus on the sub-project goals and impacts (both negative and positive), will include a representative cross-section of the community, and will aim to ascertain whether or not there is broad community support for the sub-project. Sub-project activities will not continue if community support is not obtained, documented, and filed with the community and with the PMU.
2. Participation in PPAP activities is entirely voluntary and road rehabilitation would only be undertaken at the request of the affected population and when it has the consent of all village members potentially affected by a particular sub-project activity. Communities will be required to indicate this consent in writing.
3. Where sub-projects will involve rehabilitating infrastructure on customary land the project will rely on previous arrangements where landowners have agreed to provide land for community purposes without the land being acquired by the state. Due diligence will be required to ensure that in all such sub-projects the community supports the continued donation of the customary-owned land for the rehabilitation of state-owned infrastructure. This support shall be indicated by signed agreements by the landowners.
4. There will be no involuntary resettlement and land acquisition associated with infrastructure rehabilitation.
5. Infrastructure rehabilitation should avoid and minimize the destruction of food gardens, other economic crops and income sources.
6. If land acquisition were to be required, it should be entirely voluntary and be limited to situations where PAPs would be clear net beneficiaries from the services and facilities offered by the sub-project, resulting in long-term improvements in their economic security. Measures also need to be put in place to ensure that PAPs are not pressured to donate land they use.
7. Infrastructure rehabilitation should be carried out with special care to minimize damage adjacent gardens, structures and economic trees. Where damage cannot be avoided landowners shall be compensated in accordance with the *Land Act* (Refer Section 3.2).
8. Proposed sub-projects that will not be financed include those that: are likely to impact sites of social, sacred, or religious value or sites of potential heritage value, such as archaeological sites; sub-projects which will occur on land subject to ongoing disputes; or sub-projects where customary landowners wish to have the land corridor for the infrastructure purchased by the State.
9. Clan leaders should be encouraged to ensure that relocation sites chosen cause minimal disturbance to the livelihoods and living standards of PAPs, and that particularly vulnerable groups, such as the elderly, women and children, or marginal clan members are not disadvantaged by project activities.

10. If there is a possible requirement that an infrastructure rehabilitation sub-project may require involuntary resettlement or land acquisition, then that sub-project will be excluded from further consideration for PPAP investment.
11. All operational costs and payments relating to compensation for the loss of assets or income should be funded by the GOPNG. Assets include anything growing or permanently fixed to the land affected, such as food gardens, trees and tree crops.

4.3 Entitlement policy

The following types of compensation and rehabilitation measures will be available:

Compensation to be paid at 'replacement cost' for loss of assets, such as food crops and economic trees, resulting from Project activities in accordance with Department of Lands and Physical Planning procedures.² Compensation will be paid to asset owners.

4.4 Resettlement instruments

In the unlikely event that asset loss was to occur, the PMU will be required to prepare a Compensation Plan. As part of the Compensation Plan, the PMU will:

- Conduct consultations with communities to explore the level of support for the sub-projects and the impacts on land use;
- Document the results of the consultations with communities;
- If communities are in support of the sub-project and its impact on land use, the PMU will undertake the following steps:
 - ☐ Conduct a census survey to identify PAPs and assess the value of any assets impacted. The census should include: the number of individuals and households affected; details on the affected assets; and PAP income sources such as farm-based income, labor, and informal sector activities.
 - ☐ Conduct a socio-economic survey if PAPs are losing more than 10% of their productive assets. This information will be included in the Compensation Plan.
 - ☐ Provide specific details on compensation and other resettlement assistance to be provided.
 - ☐ Detail procedures for delivery of compensation and the institutional responsibility for delivering compensation;
 - ☐ Describe grievance redress mechanisms;
 - ☐ Outline arrangements for monitoring and implementation;
 - ☐ Include timetable and detailed cost estimate.

5. Management Arrangements and Responsibilities

5.1 Institutional responsibilities

The Project Management Units (PMU) to be established within CIC and CB as part of PPAP will be responsible for enforcement of the Compensation Policy Framework, planning and preparing the inventories and for liaising with customary landowners over land issues. In implementing land matters the PMUs will be supported by the PNG Department of Lands and Provincial Lands Officers.

The selection of PPAP market access infrastructure by the respective PMUs will follow a two-stage process. The first stage is the selection of the Productive Partners who wish to engage with the Project in enhancing the productivity and incomes of smallholder coffee and cocoa growers, under Component 2 of the Project.

² Replacement cost is determined as the amount needed, at the time of impact, to purchase that which is damaged (e.g., housing material) or the estimated loss of income for damaged trees and crops, plus the amount needed to re-establish the income source (e.g., purchase of new seedlings and a reasonable compensation until the trees can be harvested).

This will be an objective and transparent process supported by an independent Technical Appraisal Committee (TAC) and overseen by an industry-level coordination committee.

Individual Productive Partners will have potential market access infrastructure projects they wish to have implemented under the project. Selection and design of priority infrastructure projects will follow a clearly documented screening and ranking process. The Transport Planner in each PMU, working under the supervision of each PMU Manager (in CIC for coffee and in Cocoa Board for cocoa) will be tasked with addressing any institutional problems or conflicts or directing them through proper channels, and overseeing the implementation of compensation measures and other entitlements.

5.2 Funding arrangements

A special fund for compensation and related costs of, destruction of food gardens, other assets and income sources should be established within the PMU using GOPNG funds. Compensation rates, cost estimates and budgets and compensation fund flow procedures will be outlined in the Compensation Plan.

5.3 Monitoring

The monitoring should verify/assess the following:

- ☒ Verify that the baseline survey of PAPs is carried out, damaged assets have been valued, and compensation and other entitlements have been paid in accordance with the provisions of the Policy Framework.
- ☒ Assess the delivery of compensation and other entitlements to ensure timely and fair payments.
- ☒ Assess the implementation and functioning of grievance mechanisms

5.4 Grievance mechanisms

The PMU will be responsible for explaining to PAPs their rights and procedures for resolving grievances. Complaints and grievances related to any aspect of the project such as damage to assets and compensation payments should be handled as follows:

1. PAPs should present any complaints and grievances to their clan leaders/village committees involved in decisions relating to land donation and asset damage and resettlement, and formal customary grievance procedures should be followed to resolve complaints. The nature of the complaint and the solution agreed upon should be presented in written form to the PMU within 14 days of the decision. The PMU will record the grievances and the proposed solution.
2. If the grievances cannot be solved through community consultation, then any party involved in the dispute can submit a complaint to the District Administrator. The District Administrator will seek to resolve the grievance using the resources of his office. Should the District Administrator not be able to resolve the grievance within 14 days the matter will be forwarded to civil courts.

As a subproject will not proceed while a grievance exists the impact of a protracted grievance will mean a subproject will be replaced by alternatives that pass all screening criteria.