



Ministry of Regional Development and Infrastructure of Georgia
Roads Department of Georgia

Resettlement Policy Framework

TEWHIP

**Upgrading and Construction of Sveneti-Rikoti Section of the
E-60 Highway**

April 2009

Resettlement Policy Framework

(Upgrading and construction of Sveneti-Rikoti section of the E-60 Highway)

(Final)

1. INTRODUCTION

This Resettlement Policy Framework (RPF) has been prepared to set out policies and procedures to mitigate impacts expected to occur as a result of the implementation of the Third East – West Highway Improvement project (“the Project”). The Project has two components: (i) the upgrading of Sveneti – Rikoti section of the East – West Highway; and (ii) Technical Assistance

The objective of this RPF is to minimise involuntary resettlement, and to assist affected persons in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to levels prevailing to the beginning of project implementation.. In order to achieve the objective, a concrete list of principles are laid out in this RPF that specifies actions to be taken in each stage of project implementation and the methodology that should be used in determining who is eligible for what compensation.

The Resettlement Action Plans (RAP) will be prepared for each construction section as per policies and principles set out in this RPF. The RAP will define detailed compensation packages to be provided to the each category of Project Affected People (PAP). Land acquisition and payment of compensation will be implemented in compliance with RAP, prior to the commencement of civil works for each respective section.

2. PROJECT AFFECTED AREAS

Geographically and administratively, Georgia is broken down into 12 Regions and 68 Districts. The country’s total population is approximately 5 million. The Sveneti-Rikoti section of the road is located in 3 districts, namely, Gori, Kareli and Khashuri.

The Project will expand the current two lane road to the four lane motorway. The final alignment has not been identified. Feasibility studies are currently under way to determine the final alignment. Detailed design will be conducted once the final alignment is determined, which will determine the exact impact due to the expansion of the road.

The initial findings of the Feasibility Study is that a new four lane road will need to be built along a new alignment for the first 15km of the road after Sveneti in order to bypass landslide prone areas. A few alternative alignments are under consideration now, however, a tunnel and bridge will be built over a considerable part of the 15km section under either alternative. The land on which the remaining part of the 15km section will pass is currently used primarily for farming or grazing, or left fallow.

After about the 15km point, the existing road will be widened on either side of the road. The right of way (ROW) has been acquired since the Soviet time over most of the itinerary – widening of the road was planned and land had been acquired to expand road but the plan was

subsequently abandoned during transition. A few small kiosks and structures are visible on the roadside, but large scale encroachment is not noticeable.

It is expected that another new bypass needs to be built to avoid passing through the town of Khashuri. Private land, mostly used for farming, will need to be acquired over this section. The bypass will merge the existing road just before the Rikoti tunnel, where the project road section ends.

3. SOCIAL ANALYSIS OF ALTERNATIVES

The feasibility study is currently under way which compares the benefits and costs of different alternative alignments. Impact on land acquisition is one parameter considered as part of the feasibility study. Once the final alignment is determined, people and businesses that are likely affected by the Project will be informed of and consulted with the expected impacts, methodology that will be used to determine compensation amounts and the means to redress grievances, implementation procedures till the payment of compensation is completed, and so on. Opinions of the affected people will be reflected in the compensation methodology and implementation procedures to be used.

A house-hold survey and census will be conducted as soon as the final alignment is determined in order to develop the inventory of project impact on each and every affected household and business. Care will be taken to set cut-off dates immediately after the determination of the final alignments. The legal instrument called a Demarcation Act will be used in the process. The Demarcation Act requires a procedural document, developed under the EWHIP 1 Project, to be used during the field survey to record all loss of assets incurred as a result of project implementation. The Demarcation Act will be signed by the PAP, their neighbours and the representatives of relevant local governments. The format is attached to this RPF. The affected entities, their neighbours and representatives of local governments will attend when the Demarcation Act is filled. The compensation eligible to each affected entity will be determined based on the Demarcation Act and the detailed methodology to calculate compensation, which will be spelled out in respective RAP.

4. RESPONSIBLE INSTITUTIONS

The Road Department of the Ministry of Regional Development and Infrastructure of Georgia (RDMRDI) has the lead responsibility for road construction, as well as the implementation of this Resettlement Policy framework (RPF). The Road Department will develop and implement the Resettlement Action Plans (RAPs) for each section according to the policies and procedures set out in this RPF, Bank OP 4.12 and relevant national laws.

In addition to RDMRDI, a number of other government departments will play an instrumental role in the design, construction and operation of the East – West Highway. Pursuant to the active legislation, the Ministry of Natural Resources and Environmental Protection is responsible for environmental issues. The Ministry of Justice is responsible for legal matters regarding land ownership, and National Agency of Public Registry within the Ministry of Justice is in charge of the registration of land ownership and its transfer through purchase agreement from land owners to the RDMRDI.

Table 1. The list of state authorities and respective responsibilities

Ministries and Departments	Responsibilities
Roads Department of the Ministry of	Obtains the right of expropriation, hires a

Regional Development and Infrastructure of Georgia	construction company and conduct the overall monitoring of the project.
Ministry of Natural Resources and Environmental Protection	Based on the evaluation of environmental impacts of the Project, issues environment protection permit.
National Agency of Public Registry of the Ministry of Justice	Identifies land plots, ownership and their registration in the Public Registry.

5. LEGAL FRAMEWORK

Laws listed below govern matters related to the acquisition of private land in Georgia:

- The Constitution of Georgia, August 24, 1995
- The Law of Georgia on the Rules for Expropriation of Ownership for Necessary Public Need, July 23, 1999
- The Law of Georgia on Ownership Rights to Agricultural Land, March 22, 1996
- The Law of Georgia on Registration Ownership Rights to Immovable Property, December 28, 2005
- The Civil Code of Georgia, June 26, 1997
- The Civil Procedural Code of Georgia, November 14, 1997
- The Law of Georgia on Privatization of State-owned Agricultural Land, July 8, 2005

Existing laws provides that compensation for lost assets, including land, structures, trees and standing crops, should be based on the current market price without depreciation. Income loss due to loss of harvest and business closure will be compensated to cover net loss.

Like under the predecessor projects, attempts should first be made to acquire private land on the basis of negotiation with individual affected entities. Should the negotiation fail, the power of eminent domain will be sought, and expropriation process will start. Under the existing law in Georgia, the President will issue an order for expropriation based on the request from relevant state agencies. Relevant regional court will assess the presidential order and determine the case of public needs, and grant the expropriation entity rights to obtain land. The court will also appoint a third party to assess the market value of lost assets and determine the compensation payable to relevant land owners according to the value of assets thus found. The table below summarizes the roles of responsible entities in the process of expropriation.

Table 2. Responsibilities of responsible bodies in the process of expropriation under Georgian legislation

Measures/activities	Responsible Body
Presidential Decree on Assigning the Right of an Expropriator	The President of Georgia
Right on Undertaking Expropriation	Through the Court Decision
Conducting appraisal (evaluation) of land and real property	Independent expert invited by the Expropriator

In the event that negotiation with the affected entities fail and that the power of eminent domain needs to be exercised, the existing legislation requires that the following procedure be taken:

- a. Issuance of Presidential decree;
- b. Inventorization of all the properties subject to expropriation;

- c. Publishing of the information on expropriation;
- d. Delivering of the information on expropriation to landowners;
- e. Submission of the Application to the Court and Court Decision and the approval;
- f. Expropriation; and
- g. Court proceedings in case any disputes are raised regarding the amount of compensation.

6. GAPS BETWEEN ACTIVE GEORGIAN LEGISLATION AND WORLD BANK RESETTLEMENT POLICY (OP 4.12), AND MEASURES TO FILL THE GAPS

Most aspects of the Bank Resettlement Policy are adequately addressed in Georgian law. One major gap is that under Georgian law, those land owners who fail to have their land registered at the Public Registry, including those who occupy land illegally, are not eligible for compensation. Also, Georgian legislation does not require specific planning process and planning instruments that are specified in OP 4.12. No specific measures for public consultation are provided under the Georgian law. Georgian legislation does not provide for additional rehabilitation measures as additional entitlements for severe impacts.

With view to addressing such gaps, this RPF follows the preceding RPF prepared under the First East – West Highway project and use the same gap filling measures, namely :

- Keep affected people and communities fully informed about the project, the process that will be followed to acquire and compensate for land, and their related rights and avenues for redress.
- Notify PAPs of the project implementation schedule and consulted regarding the principles of land acquisition and loss of or damage to assets.
- Develop a fair and accessible grievance redress mechanism acceptable to the Bank.
- Ensure all PAP receive compensation or support of various kinds, without regard to the status of land registration and ownership,, that is sufficient to restore the pre-project level of livelihood after the implementation of respective RAP.
- Ensure loss of income and assets will be compensated on a net basis without tax, depreciation or any other deduction.
- Provide additional rehabilitation measures when project impact is considered to be severe, in line with provisions of the Entitlement Matrix attached to this RPF.

7. PRINCIPLES AND PROCEDURES OF LAND ACQUISITION

The overarching objective of the Project in relation to land and asset acquisition is to assist the project affected populations (PAPs) in restoring their livelihoods at least to the level equal to the pre-project level. Specific principles that apply include:

- Construct the road to avoid residential areas wherever possible to minimize physical relocation of people, and select alignments that minimise acquisition of privately or publicly held productive land;
- Adopt design standards that minimise the need to impose land use restrictions on adjoining areas;
- Develop fair and transparent procedures, as defined in the Entitlement Matrix in this RPF, to determine compensation for (i) temporary loss of land/ assets during construction; (ii) permanent acquisition of land and assets; and (iii) restrictions on use of land that may be applied to areas adjoining the corridor;

- Acquire land (or right to use land) through negotiated agreements and with the use of the power of eminent domain only as a last resort.
- Upon completion of construction, restore land as best as possible to its original condition in the event of temporary disruption so as to enable landowners/users/lessees to resume their pre-project activities;
- Keep affected people and communities fully informed about the project, the process that will be followed to acquire and compensate for land, and their related rights and avenues for redress.
- Ensure that grievances PAPs may have will be redressed adequately, and that solutions in line with principles laid out in this RPF be employed;
- All Project Affected People (PAP), without regard to legal status of property, will receive support of various kinds, as per the principles set out in the Entitlement Matrix, to assist them in their efforts to maintain their livelihoods and standards of living prevailing prior to the Project. Those who illegally own land will not be compensated for loss of land, but will receive compensation for loss of other assets which had been established on their own finance, and for loss of income such that they are also assisted in their efforts to maintain their livelihoods. . Detailed measures to be implemented will be determined based on the census and socio-economic survey to be carried out when Resettlement Action Plan is developed.
- PAP will be notified of the project implementation schedule and consulted regarding the principles of land acquisition and loss of or damage to assets.
- Damages to assets, such as standing crops, trees, fences and kiosks, and loss of income, including loss of harvest, will be minimized, and where inevitable, will be compensated without regard to legal status of ownership according to the Entitlement Matrix provided in this RPF.
- Resettlement Action Plan (RAP) will be developed as per this RPF and Bank OP 4.12 as well as Georgian legislation for each section of the Project itinerary that defines detailed compensation packages and implementation schedule. Since, as discussed above, there are gaps between OP 4.12 and Georgian legislation and practice on expropriation, any land acquisition required for the Project will be carried out as per the principles and procedures laid out in this RPF.
- A market survey will be conducted to assess the prevailing market prices of land, construction materials for affected structures, crops and other relevant items, which will be used as the unit prices to determine compensation. This will additionally ensure that the market prices will allow PAPs to purchase replacement land.
- Loss of income and assets will be compensated on a net basis without tax, depreciation or any other deduction.
- The final RAP should be submitted to and cleared by the Bank prior to the execution of civil works for relevant sections.

The details of land acquisition procedure will be spelled out in RAP(s), but they will include:

- Initial consultation with PAP to notify the project and board impact
- Census, geographic survey and socioeconomic survey of PAP
- Determination of PAP and types/ scale of impact

- Development of compensation package and drafting of RAP
- Consultation with PAP
- Negotiation with PAP and payment of compensation
- Expropriation process where negotiation fails
- Compensation/rehabilitation measures will be implemented as the civil works progress but prior to the start of the construction on a particular section.

8. GRIEVANCE REDRESS MECHANISMS

A grievance mechanism will be available to allow an affected person to appeal on any disagreeable decision, practice, application, or activity arising from the implementation of the Project. The PAPs will be fully informed of their rights and procedures for addressing complaints whether verbally or in writing during consultation, survey and time of compensation. The experience of First and Second East – West Highway project is that, by ensuring that PAPs are fully informed of their entitlements and obligations and relying primarily on negotiation to agree on terms of compensation, the number of PAPs with grievance can be minimized. Nonetheless, staff of the RDMRDI will be regularly available and accessible for PAP to address concerns that may be raised through hotlines established with Road Development and Resettlement Division. Solutions acceptable to both RDMRDI and the PAP with grievances will be sought during negotiation. Should negotiations fail, PAP will have the opportunity to their complaints at the relevant regional courts. If the ruling by the court is below the market price assessments as found in the market survey, RDMRDI will provide additional funds to ensure that compensation provided reflects replacement value. RDMRDI Road Development and Resettlement Division will keep a record of complaints received for its use as well as for use by the Bank during regular supervisions.

Type of loss	Impact	Category of PAP	Entitlement	Follow up
Permanent loss of land	HHs losing agricultural / grazing land less than 20% of their total holding	Owners with full or incomplete registration	(i) Cash compensation at replacement cost; or	All those who are using the land at the time of census which they purchased, inherited or received from other individuals, or received from the state at the time of land privatization, will be eligible for compensation
	(ii) Replacement land of the same productive value, agreeable to the PAP			
	Severe impact (loss of land >20%)	- If between 20-50% of land is lost, Jobs created under the Project will be available in addition to (i) or (ii). - If more than 50% of land is lost, then trainings for alternative jobs will also be provided in addition to the jobs to be provided as well as (i) or (ii).		
		Squatters/ encroachers	Alternative agricultural land at subsidized or no rent from public reserve	
Loss of/ damage to assets	Damage to residential/ non-residential structure	Owners of the affected structure, without regard to the legal status	Cash compensation at replacement cost without depreciation	
	Marginal (damage <20% of structure) or severe (damage >20% of structure)		Alternative structure will be built if impact is severe	
	Damage to roadside commercial structure (e.g. kiosk, gas stand, restaurant)	Owners of the affected structure, without regard to the legal status	Cash compensation at replacement cost without depreciation. Relocation of the structure to near and safe premise to continue with the same business	Land use agreement with owners be made/ renewed
Loss of income/ productive assets	Loss of standing crops and trees	Owners of the affected crops, without regard to the legal status	Cash compensation equal to the loss of expected harvest due to construction	-
		Owners of the affected trees, without regard to the legal status	Cash compensation at market value on the basis of type, age, and productive value. If affected trees are removable, compensation will be equal the transportation cost plus actual loss.	
	Loss of income from sales of crops during construction	Owners of the affected crops, without regard to the legal status	Cash compensation equal to the loss of expected harvest due to construction	

	Loss of income from roadside business activities	Business owners, without regard to the legal status	Rehabilitation measures including cash compensation at least equal to the lost income due to construction	Specific rehabilitation measures will be developed in RAP
Temporary impact	Loss of access to grazing land	Domestic animal owners, without regard to the legal status	Temporary access will be set up	
	Structures knocked down during construction	Owners of the affected assets, without regard to the legal status	Assets, including farm land, will be restored at the same place after construction	
	Loss of income due to temporary loss of access to business location	Owners of the affected assets, without regard to the legal status	Temporary access will be set up	

Demarcation Act No _____

of the
Land Parcel located within the
Georgia Tbilisi-Senaki-Leselidze Auto Road Sveneti-Rikoti km80 – km143 Section
Road Construction Project affected area

Date: _____ 2009

Land Parcel Location: _____ Rayon, Village _____

We,

(Names of: the landowner, village Municipality Rtsmunebuli, representative of Rayon Municipality Gamgeoba, surveyor)

Composed the hereby Act on the following:

1. In respect with Georgia, Tbilisi-Senaki-Leselidze Auto Road Sveneti-Rikoti km80 – km143 Section Road Construction Project the survey and demarcation activities have been undertaken to land parcel located on the territory of village _____ and is under private ownership of

(landowner's full name and ID number)

2. The location and the boundaries of the stated land parcel are endorsed and confirmed by:

Chief land arranger of _____ rayon:

Owner of the land parcel:

Owner(s) of the adjacent land parcel:

Full name: _____
Representative (Rtsmunebuli) of _____ rayon Municipality in village _____

3. We, hereby endorse the fact of conducting Demarcation and survey activities to the stated Land Parcel:

Land parcel Owner:

Full name: _____
Representative (Rtsmunebuli) of _____ rayon Municipality in village _____

Land surveyor:

Representative of _____ rayon Municipality Gamgeoba
