



GOVERNMENT OF MALAWI

ELECTRICITY SUPPLY CORPORATION OF MALAWI (ESCOM) LIMITED

**RESETTLEMENT POLICY FRAMEWORK
(RPF)**



MALAWI EMERGENCY POWER RESTORATION PROJECT

FEBRUARY 2024

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LIST OF ACRONYMS

ADC	Area Development Committee
AEC	Area Executive Committee
AIDS	Acquired Immune Deficiency Syndrome
CSSC	Community Social Support Committee
DADO	District Agriculture Development Officer
DC	District Commissioner
DCDO	District Community Development Officer
DEC	District Executive Committee
DESC	District Environmental Sub-Committee
DLO	District Lands Officer
DP	Displaced Person
DPD	Director of Planning and Development
EAD	Environmental Affairs Department
ECD	Early Child Development
EDO	Environmental District Officer
EGENCO	Electricity Generation Company
ESCOM	Electricity Supply Commission of Malawi
ESMF	Environmental and Social Management Framework
ESMP	Environmental and Social Management Plan
GBV	Gender Based Violence
GCRC	Gross Current Replacement Cost
GHG	Greenhouse Gas
GIS	Geographic Information System
GoM	Government of Malawi
GVH	Group Village Headman
HIV	Human Immunodeficiency Virus
ICT	Information and Communication Technology
LA	Local Authority
M&E	Monitoring and Evaluation
M&EO	Monitoring and Evaluation Officer
MDGS	Malawi Development and Growth Strategy
MEPRP	Malawi Emergency Power Restoration Project
MFEPD	Ministry of Finance, Economic Planning and Development
MLGRD	Ministry of Local Government and Rural Development
MoL	Ministry of Lands
NEAP	National Environment and Action Plan
NGOS	Non-Governmental Organisations
NSO	National Statistics Office
PAP	Project Affected Person
PDO	Project Development Objective
PSC	Project Steering Committee
RAP	Resettlement Action Plan
RPF	Resettlement Policy Framework
STIs	Sexually Transmitted Infections
T/A	Traditional Authority

TCE	Technical Committee for the Environment
VDC	Village Development Committee
WASH	Water Sanitation and Hygiene
WB	World Bank

DEFINITION OF SELECTED TERMS USED

Census: A field survey carried out to identify and determine the number of project affected persons or displaced persons in accordance with procedures including criteria for eligibility for compensation, resettlement and other measures, emanating from consultations with affected communities and local chiefs.

Compensation: Payment in kind, cash or other assets given in exchange for the taking of land including fixed assets thereon, in whole or in part.

Cut-off-date: Date of commencement of the census of project affected people within project area boundaries.

Displaced persons: Persons who, for reasons of the involuntary taking or voluntary contribution of their land and other assets under the project result in direct economic and or social adverse impacts, regardless of whether the displaced persons physically relocate.

Eminent Domain: The right of the state to acquire land, using its sovereign power, for public purpose. National law establishes which public agencies have the prerogative to exercise eminent domain.

Grievance Procedures: The processes established under law, local regulations, or administrative decision to enable property owners and other displaced persons to redress issues related to acquisition, compensation, or other aspects of resettlement.

Income and Livelihood Restoration Strategy: The approaches used to assist people in their efforts to improve (or at least to restore) their incomes, livelihoods, and standards of living in real terms after resettlement. The income and livelihood restoration strategy typically consists of payment of compensation at replacement cost, transition support arrangements, relocation to new sites (if applicable), provision of alternative income-generating assets (if applicable), assistance to help convert income-generating assets into income streams as well as measures taken for income restoration or economic recovery so that the affected population can improve or at least restore its previous standard of living.

Involuntary Resettlement: Project-related land acquisition or restrictions on land use may cause physical displacement (relocation, loss of residential land or loss of shelter), economic displacement (loss of land, assets or access to assets, including those that lead to loss of income sources or other means of livelihood), or both. The term “involuntary resettlement” refers to these impacts. Resettlement is considered involuntary when affected persons or communities do not have the right to refuse land acquisition or restrictions on land use that result in displacement

Involuntary Land Acquisition: The taking of land by government or government agencies for purposes of a public project without right of refusal by the landowner. This includes land or assets for which the owner enjoys uncontested customary rights.

Land: The material of the earth, whatever may be the ingredients of which it is composed, whether soil, rock or other substance, and includes the surface, building, other things permanently affixed to land and free or occupied space for an indefinite distance upwards as well as downwards, subject to limitations upon the airspace, and rights in the use of airspace granted by international law

Land acquisition: The legal process of obtaining land (vacant or inhabited) of individual citizens or organizations by the government or its agencies for any purpose of public interest i.e. for specific project.

Resettlement Action Plan: A resettlement action plan [RAP] is the planning document that describes what will be done to address the direct social and economic impacts associated with involuntary taking of land.

Resettlement Entitlements: Resettlement entitlements with respect to a particular eligibility category are the sum total of compensation and other forms of assistance provided to displaced persons in the respective eligibility category.

Resettlement Policy Framework: An instrument or statement of the policy, principles, institutional arrangements and procedures to be used by Government to guide the process of addressing adverse impact of land acquisition when exact sites are not known.

Rehabilitation Assistance: The provision of development assistance in addition to compensation such as land preparation, credit facilities, training, or job opportunities, needed to enable displaced persons to improve their living standards, income earning capacity and production levels, or at least maintain them at pre-project levels.

Relocates, Relocated Communities, or Resettlers: Those groups of people who have to physically move to new locations as a result of a project.

Replacement Cost: Refers to a method of valuation yielding compensation sufficient to replace assets, plus necessary transaction costs associated with asset replacement and without depreciation.

Replacement cost for land: means the pre-project or pre-displacement, whichever is higher market value of land of equal productive potential or use located in the vicinity of the affected land, plus the costs of preparing the land to levels similar to those of the affected land; and any registration and transfer taxes.

Replacement cost for houses and other structures: The prevailing cost of replacing affected structures, in an area and quality similar to or better than that of the affected structures. Such costs shall also include transporting building materials to the construction site; labour and contractors' fees; and registration costs.

Resettlement Assistance: The measures to ensure that displaced persons who may require to be physically relocated are provided with assistance during relocation, such as moving allowances, residential housing or rentals; whichever is feasible and as required, for ease of resettlement.

Stakeholders: A broad term that covers all parties affected by or interested in a project or a specific issue—in other words, all parties who have a stake in a particular issue or initiative. Primary stakeholders are those most directly affected—in resettlement situations, the population that loses property or income because of the project and host communities. Other people who have an interest in the project—such as the project authority itself, the beneficiaries of the project (e.g., urban consumers for a hydro-power project), and interested NGOs are termed secondary stakeholders.

Voluntary Land Donation: A process by which an individual or communal owner agrees to provide land or property for project-related activities. Voluntary donation is an act of informed consent, made with prior knowledge of other options available and their consequences, including the right not to contribute or transfer the land. It must be obtained without undue coercion or duress. .

1. EXECUTIVE SUMMARY

1.1. Project Description

The Ministry Energy (MoE) through ESCOM and EGENCO proposed the Malawi Emergency Power Restoration Project (MEPRP) to support the Government to prepare, finance, and strengthen its capacity to implement the National Electrification Program (NEP). Specifically, the proposed MEPRP project will focus on restoring the power infrastructure, which was damaged by Tropical Storm Ana. The proposed project amount for MEPRP is about US\$ 60 million and has two components. The first component will involve rehabilitation and strengthening of Kapichira Dam (US\$44.7 million) and will be managed by the Electricity Generation Company (EGENCO). This component will restore the generation capacity of Kapichira Power Station to full capacity after the disruption that saw the plant being shut down after the Tropical Cyclone Ana. Component two will involve the restoration of transmission and distribution network that was damaged by the Tropical Cyclone Ana. The amount allocated to this component is (US\$15.3 million) and will be managed by the Electricity Supply Corporation of Malawi (ESCOM). The component will see permanent rehabilitation works which shall comprise of complete line construction works, replacement of structures, and replacement of specific equipment and materials. This RPF has been prepared to address displacement impacts associated with ESCOM activities.

1.2. Resettlement Policy Framework for MEPRP – ESCOM Component

This Resettlement Policy Framework (RPF) has been developed in line with national legislation and ESS 5 to provide guidelines on how the projects will avoid, manage or mitigate potential risks and the process by which Resettlement Action Plans will be prepared and implemented during the project implementation period. The objectives of the Resettlement Policy Framework (RPF) are to:

- Establish the resettlement and compensation principles and implementation arrangements;
- Describe the legal and institutional framework underlying Malawi's and ESS5's approaches to resettlement, compensation and rehabilitation;
- Define the eligibility criteria for the identification of project affected persons (PAPs) and entitlements;
- Describe the consultation procedures and participatory approaches involving PAPs and other key stakeholders; and
- Provide procedures for filing grievances and resolving disputes.

1.3. Focus Impacts of the RPF

This RPF focuses on direct economic and social impacts that result from the MEPRP: - The involuntary taking of land or other resources resulting in (i) relocation or loss of shelter (physical displacement); (ii) loss of assets or access to assets; or (iii) loss of income sources or means of livelihood (economic displacement). The estimated numbers of PAPs is not expected to exceed 200 individuals and businesses.

1.4. Legislative Framework of the RPF

The RPF has been developed based on ESS 5 Land Acquisition, Restrictions on Land Use and Involuntary Resettlement and relevant Malawian Laws which include Constitution of the Republic of Malawi (1994), Land Act (2016), Land (Amendment Act 2022), Forest Act (1997), The Electricity Act (2004), Energy Act (2004), Rural Electrification Act (2004), Town and Country Planning Act (1988), National Land Policy (2002), and other relevant Malawian policies that will be described in this framework.

1.5. Valuation and Compensation Framework

Though the Malawian legal instruments and laws insist that all people affected by expropriation must receive fair and just compensation and that the calculation of fair and just compensation is based on current market prices, this RPF provides for Replacement Cost as valuation basis for compensation. The methods, formulae and cost for replacement are provided in the entitlement matrix of the RPF. This will ensure that ESF requirements are met for valuation for activities that will affect and displace people and their sources of livelihood.

1.6. Framework for Preparation and Implementation of RAP

The steps to be undertaken toward the preparation of each RAP include a screening process, a socioeconomic profile, census and identification of Project Affected Persons (PAPs), land asset inventory of the area and valuation of assets, and public consultation among other RAP preparation processes. This will be followed by the development of a Resettlement Action Plan (RAP), review and approval, implementation of the RAP and monitoring of RAP implementation and success. These steps will be the responsibility of the Project Implementation Unit (PIU). However, the District Councils will assist in monitoring and ensuring that timely and fair compensations are done.

1.7. Disclosure of RPF/RAPs

Public disclosure of the RPF will be made nationally through the ESCOM, Environmental Affairs Department and the District Council/Assembly notice boards in addition to the World Bank external website. Disclosure of RAPs will be made to PAPs and other stakeholders for review and comments on entitlement measures and other issues in the implementation of the RAPs. The purpose of the disclosure will be to receive comments and suggestions from PAPs and incorporate appropriate suggestions. The RAPs will be disclosed in a form, manner and language comprehensible to PAPs and at a place accessible to the affected population and other stakeholders for review and comments on entitlement measures. Except for the Individual Entitlements other sections of the RAPs will be disclosed. ESCOM shall disclose and post any RAPs in their websites, and in local newspapers with wide circulation, and receive comments. Comments and critiques made on any RAP by PAPs and other stakeholders will be taken into consideration by the MEPRP- ESCOM PIU. The MEPRP-ESCOM PIU will also conduct a half-day workshop in the project areas for the PAPs, stakeholders, representatives of civil societies, and local leaders with the objective of disclosing project specific RAPs. The public disclosure of any RAP will be made in Chichewa and English languages. This could be done through depositing / posting them in a range of publicly accessible places such as District Council Offices, Schools, Churches and other public places. They will also be disclosed for input from civil societies, academics, and other professionals.

1.8. Monitoring and Evaluation Framework

The arrangements for monitoring the resettlement and compensation activities will fit the overall monitoring program, which will fall under the overall responsibility of the ESCOM PIU.. Periodic evaluations will be made in order to determine whether: the PAPs have been paid in full and before implementation of the sub-project activities; economic rehabilitation measures have been implemented, and the PAPs have the same or higher standard of living than before. Some objectively verifiable indicators shall be used to monitor the impacts of the compensation and resettlement activities. These indicators will be targeted at quantitatively and qualitatively measuring the physical and socio-economic status of the PAPs, to determine and guide improvement in their social wellbeing. In addition, an independent audit will take place at the completion of RAP implementation.

1.9. Estimated Budget for the RPF implementation

The estimated cost for the implementation of this RPF will be MK50,000,000.00 minus the cost of implementing individual RAPs since those costs have not yet been determined. The RPF budget costs will cover stakeholders' training and consultation forums on RPF; Monitoring and evaluation exercise on the implementation of the individual RAPs; evaluation of livelihood empowerment programs and RAP training.

1.10. Capacity Building and Training for RPF

Effective implementation of the RPF will require adequate capacity enhancement for implementing institutions and other stakeholders. This will be done by the PIU in all districts where the project will have investments.

1. DESCRIPTION OF THE PROJECT

1.1 The Preamble

This Resettlement Policy Framework (RPF) has been developed to address mechanisms and procedures to address resettlement issues likely to result from the implementation of the Malawi Emergency Power Restoration Project (MEPRP) Component 2. It outlines the legal requirement and the instruments that will be used to address resettlement of the affected people. This RPF complements the Environmental and Social Management Plan (ESMP) of the same project.

1.2 Background

ESCOM is implementing the transmission and distribution component of the Malawi Emergency Power Restoration Project with financial assistance from the World Bank up to a tune of 15.3 Million US\$ allocated as 6.1 million US\$ as Grant and 9.2 million US\$ as credit. The transmission and distribution restoration component plans to reconstruct ESCOM's infrastructure damaged by tropical storm Ana including both transmission (132kV & 66kV) and distribution (33kV, 11kV and 400V lines) networks where a number of power line components have been affected. These include steel towers, wooden poles and structures, transformers, conductors and insulators among others. The damage caused by the tropical storm has been in various degrees including complete line sections, isolated structures and damage to specific equipment and materials in a manner that permanent rehabilitation works will have to comprise of complete line construction works, replacement of structures, and replacement of specific equipment and materials. This has initiated the need for ESCOM to have warehouses that can be used to store equipment at Nchalo in Chikwawa and Phombeya in Balaka districts. The sites identified for construction of the warehouses and offices are existing ESCOM owned land.

1.3 Objectives and Rationale

The objective of the project is to rehabilitate and increase resilience of transmission and distribution infrastructure damaged by Tropical Storm Ana by reconstructing ESCOM's infrastructures and construction of 2 warehouses to keep ESCOM spare parts and equipment inventory level optimized by maintaining the supply with demand. This will help ESCOM to timely respond to future damages to ESCOM infrastructure, as well as towards improving the resilience and efficiency of ESCOM services. Mobilizing of spare parts, together with capacity building of ESCOM staff in operation and maintenance (O&M), will also increase sustainability and resilience of these assets and associated services. In the long run the project will improve electricity services to households, businesses and public.

1.4 Nature and Scope of the Project

ESCOM plans to (1) rehabilitate the overhead line and switch gears; (2) replace wooden poles with steel towers on river and road crossing and structures located in swampy areas; (3) redesign and replace damaged towers and re-conduct the entire line; and (4) replace switchgear, protection, communication, SCADA equipment including control and protection panel. The total cost is US\$ 7,962,903 and the costs covers contractors and support activities. Rehabilitation work is likely to start in May 2024

ESCOM also plans to construct 2 warehouses, associated offices and washrooms in Nchalo and Phombeya. The main design elements and activities at each of the sites is typical of small-scale, single-storey building construction. The total cost of the two warehouses is estimated at US\$ 400,000 including consultants and support activities.

1.5 Implementing Agencies and Beneficiaries

Component 2 of the Project will have its implementation unit housed within ESCOM. The PIU in ESCOM have recruited staff in various departments including project management, procurement, finance, social and gender inclusion, environment, and health and safety. For various specialised functions, specialist services

will be procured and will be part of the PIU. In reinforcing the capacity of the PIU's staff, the project will provide training to these specialists as a mitigation measure to minimise any risks associated with the project. Apart from that, the project will also provide various other capacities necessary for its successful implementation. The overall strategic direction will be provided by the Project Steering Committee (PSC) to be chaired by MoE. The Project Steering Committee shall oversee the functions of the PIU. ESCOM will be the main implementing agency responsible for implementing Component 2. ESCOM will be working in close cooperation with several key implementing partners, including Ministry of Gender, Children, Disability and Social Welfare (MGCDSW), Ministry of Natural Resources, Energy and Mining, Ministry of Local Government and Rural Development, Ministry of Lands. At District Level operational delivery of component 2 will be the responsibility of district councils, which are decentralised legal entities and the existing DSSC will be the main coordination mechanism. While at Community Level Implementation process will be led by the Community Social Support Committee (CSSC) within the Village Development Committee (VDC). The beneficiaries of the restoration of damaged transmission and distribution infrastructure will include the following:

- **Households and businesses without access to electricity due to damage caused by tropical storm Ana.** Access to electricity contributes to an improvement in the quality of life by enabling newly connected consumers to undertake productive and income-generating activities (less time spent on fetching traditional sources of energy and clean water) and enhanced access to information/communication (through phone, radio, television, and so on). Empirical evidence also points to health benefits owing to the reduction of indoor air pollution due to reduced fumes from burning biofuels and kerosene consumption. Given the recurring load shedding caused by reduced generation capacity, and the damaged transmission and distribution network, households and commercial entities are unable to have access to low-cost, reliable electricity supply thereby causing a decline in quality of life, and commercial activities.
- **Health Facilities, Schools, and Water Pumping Stations.** Improvements in the quality of public service delivery are expected through both existing connections and increased electricity connections, especially of public facilities such as schools; clinics; hospitals (for example, for cold chain, vaccine and medicine refrigeration, lighting, sterilization); operation of equipment for medical procedures; and water pumping stations (for example, for safe drinking water).
- **Enterprises.** Improved access to electricity supply will contribute to increased productivity and income of enterprises (particularly for micro/small/medium enterprises) and will assist them in reducing their dependency on expensive diesel generation that has a substantially higher per unit cost. In addition, increased access to electricity can boost productivity and reduce sales and equipment losses.
- **Electricity sector institutions.** The sector institutions, especially EGENCO and ESCOM, are expected to benefit from increase in revenue and also the strengthening of planning and implementation capacity, which could translate into improved institutional performance as well as cost-effectiveness, efficiency, transparency, and accountability of the sector.

2. JUSTIFICATION AND OBJECTIVES OF THE RESETTLEMENT POLICY FRAMEWORK (RPF)

This RPF applies to all elements of the various subproject investments under MEPRP of component 2. The need for Resettlement Policy Framework emanates from observations which indicate potential risks of some of the sub projects under the MEPRP on land, assets and livelihoods. The interventions being proposed under the MEPRP component 2 are NOT expected to trigger significant resettlement issues. However, the implementation of the rehabilitation of the distribution and transmission lines may require temporary access roads, which may require temporary use or acquisition of some land. This may lead to some negative social impacts such as loss of property on people's land, loss of access to cultivable land, loss of access to grazing land and temporary disruption of access paths. . The aim of Resettlement Policy Framework (RPF) is to provide a tool for the screening of sub-projects and to ensure that where land acquisition for the sub-project activities is inevitable, the acquisition of such land should be conceived and executed in a manner that is consistent with the requirements of national law and the World Bank ESS5 on land acquisition, restriction on land use and involuntary resettlement. The RPF also provides a process to be used in identifying individuals to be affected by project activities as well as the type and magnitude of impact and outline the process for preparing a Resettlement Action Plan. The RPF includes methods for identifying processes for monitoring and evaluating resettlement impacts in planning and implementation of sub-projects to be funded from MEPRP. Specific objectives of the Resettlement Policy Framework are as follows:

- To outline steps in resettlement screening of sub projects and description of the process for preparing and approving resettlement plans.
- To describe potential socio-economic impacts from resettlement.
- To describe policy and legal framework on land acquisition and resettlement and identify gaps between national legislation and regulatory requirements and the WB ESS5 and suggest mechanisms to bridge such gaps.
- To describe eligibility criteria for compensations to various categories of affected people.
- To describe methods of valuing affected assets for purpose of compensation.
- To outline institutional frameworks and suggest an organisational structure responsible for the implementation of resettlement activities.
- To outline budget estimates and funding arrangements for resettlement.
- Outline principles and objectives governing resettlement preparation and implementation.
- Establish the MEPRP resettlement and compensation principles and implementation arrangements;
- Describe the consultation procedures and participatory approaches involving PAPs and other key stakeholders; and
- Provide procedures for filing grievances and resolving disputes.

Implementation of the RPF is expected to avoid or minimize the loss of land, immovable assets, and physical displacement of residential and other structures as much as possible during the planning and implementation of sub-projects under the MEPRP given other technical, economic, financial, and environmental considerations. These risks can be minimized by:

- Avoiding displacement of people without a well-designed compensation and relocation process;
- Minimizing the number of PAPs, to the extent possible;
- Holding extensive consultation with project beneficiaries and project affected persons.
- Compensating for losses incurred and displaced incomes and livelihoods; and
- Ensuring resettlement assistance or rehabilitation, as needed, to address impacts on PAPs livelihoods and their wellbeing.

2.1. Key Principles of RPF

The overall policy guidance on execution of MEPRP and sub-projects is to avoid resettlement related cases. Key principles are as follows:

Principle 1: Sub projects eligible for funding from MEPRP shall be those proposed in suitable sites. Suitable sites for funding of a sub-project are those sites where the implementation of a project would not bring about involuntary resettlement, involuntary physical dislocation, eviction of squatters, loss of land (whether ownership is recognised by customary land tenure or land titles, impact on cultivations and property, loss of access to property, loss of access to natural resources and other economic resources. During appraisal, availability of a written proof of properly acquired land will be one of the pre-requisite conditions for approval of a proposed sub-project.

Principle 2: In cases where compensation for improvements is still found to be inevitable for sub-project implementation, The Government of Malawi through ESCOM, Ministry of Lands, Ministry of Finance, Economic Planning and Development, Ministry of Local Government and Rural Development in consultation with local leaders will make sure that appropriate compensation and resettlement assistance to the project affected person either in cash or kind is done in accordance with the process outlined by this Resettlement Policy Framework.

2.2. Funding for Compensation and Resettlement

Though the fundamental principle in the implementation of this RPF is to avoid triggering of compensation and involuntary resettlement at the screening stage, there remains a possibility that such issues may arise during the project life span. In such cases, ESCOM, will make sure that appropriate compensation and resettlement assistance to the project affected persons either in cash or kind is done. In case there is a need for compensation and resettlement in a sub-project, Local authorities will carry out and administer a RAP as per the guidelines contained in this RPF.

2.3. Flexibility of the RPF

Since this RPF is prepared for the duration of the project cycle, it needs to be flexible to respond to the changes which may happen during the life of the MEPRP. Such changes will include:

- Changes in relevant legislation; the introduction of new acts and legislation;
- Possible reforms in the electricity and land sector which may affect existing ministerial arrangements; and
- Possible adjustments to the new devolved structures.

3. METHODOLOGICAL APPROACH

The RPF study for the project was carried out from 21 May 2022 to present day. The study methodology has been divided into three parts namely:

- Data Collection;
- Data Analysis; and
- Preparation of the RPF report.

Data required for the RPF study were collected through primary and secondary sources, which included:

- Literature review;
- Site visits; and
- Public consultation.

Data already available by means of books, reports and unpublished documents and newspapers were used as secondary data sources in this study. Field surveys were mainly used to collect data of physical, biological and socio-economic environment in the districts where the project will be implemented.

3.1.1. Literature review

Several documents and literature were reviewed to have an in-depth understanding of the project. These included a national and international legal framework that will guide the operations and implementations of proposed activities and studies and reports that presents the possible impacts and mitigation measures that should be included during implementation and operation of the project.

3.1.2. Stakeholder consultations and Key Informant Interviews

Staff and key informants of the project were interviewed in from May 2022 to understand several procedures, policies and institutions' mandates. These are institutions that will be key during the implementation and operation of the project. The following institutions were consulted: World Bank Malawi, The Electricity Supply Corporation of Malawi (ESCOM) Department of Physical planning and local communities in Thyolo, Balaka Chiradzulu, Mulanje, Phalombe, Chikwawa and Nsanje. These interviews provided many insights regarding the possible impacts of the project and possible mitigation measures. They also highlighted the institutions that will be key and instrumental in making the project sustainable and effective. Stakeholder consultations help to identify and promptly address the concerns of different stakeholders and the PAPs regarding their rights and interests. Stakeholder consultative meetings were specifically conducted to:

- Inform the stakeholders about the project;
- Identify concerns from different stakeholders concerning the project;
- Address different concerns of stakeholders about the project; and
- Document the concerns from stakeholders about the project with a view to minimise potential conflicts that could arise during project implementation.

3.1.3. Identification of Stakeholders

The drafting team together with the client identified the stakeholders who needed to be consulted for the project. These included the members of the District Executive Committee (DEC) and communities in Chikwawa, Chiradzulu, Mulanje, Nsanje, Phalombe and Thyolo districts. The DEC was particularly earmarked for consultation because its membership comprises different technical staff at district level that work with the different communities in development programmes. Based on the roles DEC members play at district level to assist the local communities develop, it was felt that they could have the type of information the drafting team needed in development of the RPF. Details of the stakeholders at district and local levels are provided in table 1 below.

Table 1: Details of Stakeholders Consulted

District	Name	Position	Phone Number
District Officials Stakeholders Consulted			
Chikwawa	Stanley Ndiwo	Forestry officer	redacted
	Godwin Kaliu	Assistant Forestry officer	redacted
	Ellina Mkandawire	Environmental Officer	redacted
	Aaron Madale	Social welfare	redacted
	Andson Harry	Zone supervisor	redacted
	Paul Sikweya	Line man	redacted
Balaka	Yokonia Chitsonga	Control Technician ESCOM	redacted
	Stanley Chisi	Social Welfare	redacted
	Patricia Lembo	Labour Office, DLO	redacted
	James Jambo	Acting District environmental officer	redacted
	Stuart Chikhaula	Forestry	redacted
Community Members			
NAME			Phone Number
Ramuzani Mahomed			redacted
Thokozani Yali			redacted
Wisted Meke			redacted
Mr Blamu			redacted
Regina (Extension worker)			redacted
Mrs Jouake			redacted
Mrs Pansipanadya			redacted
Senior Chief Meki			redacted
Esmie Sempulo			redacted
David Wson Thaundi			redacted
Rev Yakobo Misoya			redacted
Christina Petulo			redacted
Severia Moffat			redacted
Nyabobo Phiri			redacted
Elias Parafin Kasukusa			redacted
Victoria Chikutireni			redacted
Godfrey James Salamba			redacted
Annie Luwiji			redacted
Petro Mphande			redacted
Salitso Ready			redacted
Chancy Klever			redacted
Makuya Wendala			redacted
Nthanda Ganunga			redacted
Harriet Mphanda			redacted
James Zingano			redacted
Kingsley Dossi Lyson Chirembo			redacted
Mrs Mercy Gauti			redacted
Steben Charles			redacted
Isaac Jamusi			redacted
Lundu Patrick			redacted
Mr Mphaka			redacted

Community Members	
NAME	Phone Number
Mr Gaiuti	redacted
Mr Chadula	redacted
Mrs Alieti Nikisi	redacted
Mrs Chinseke	redacted
Naswande Mologeni	redacted
Catherine Braiton	redacted
Smart Kamwana	redacted
Chikondi Alufasi	redacted
Makishoni Mpandeni	redacted

3.1.4. Message to stakeholders

The message to the stakeholders included that ESCOM is implementing the transmission and distribution component of the Malawi Emergency Power Restoration Project. The transmission and distribution restoration component plans to reconstruct ESCOM's infrastructure damaged by tropical storm Ana including both transmission (132kV & 66kV) and distribution (33kV, 11kV and 400V lines) networks where a number of power line components have been affected. The damage caused by the tropical storm has been in various degrees including complete line sections, isolated structures and damage to specific equipment and materials in a manner that permanent rehabilitation works will have to comprise of complete line construction works, replacement of structures, and replacement of specific equipment and materials. This has initiated the need for ESCOM to have warehouses that can be used to store equipment.

Areas discussed during the meetings included the following:

- Nature of the project;
- Project impact areas;
- Activities of the project;
- Environmental and social impacts of the different project activities;
- Measures to manage the different impacts;
- Most important features in the project impact area;
- Sensitive areas (protected areas, graveyards, historical sites, etc.) in the project impact area;
- Socio-economic and environmental issues to arise from implementation of the proposed Project activities;
- Gender and HIV issues;
- Livelihood programmes in the area;
- Land tenure and land use;
- Employment opportunities;
- Occupational health and safety;
- Benefits (increased trade, employment, social amenities and transport); and
- Positive or negative experiences with other projects of similar nature.

Table 2: Feedback from Consultation meetings

Institution	Date and Venue	Name and details	Remarks
ESCOM	20th August 2022 ESCOM office Blantyre	Mrs Gertrude Malulu - Environmental and way-leaves officer	The section is heavily understaffed and deals with a diversity of issues from environmental management, wayleaves management and social and compensation issues. There are no clear environmental management issues in ESCOM, e.g. management of oil and waste and some. The ESMF will be critical to help establish some guiding principles in the management of environmental issues. More so, ensuring that the capacity of the environmental section is increased will ensure timely and efficient implementation and management of environmental issues arising from MEPRP. Regarding Grievance Redressing Mechanisms, the procedure differs depending on the project. Each project comes with its redressal mechanism as such there is no written procedure. ESCOM works with District Councils staff, chiefs and village Development Committees to sort out grievances. During operation of projects, the procedure is that the aggrieved party lodges a complaint in writing to senior Managers or CEO of ESCOM. From the written complaints, environmental issues are handled. Some nonenvironmental complaints are handled by the Customer Care Department, others by the faults department and who have a Call Centre which embraces all ESCOM departments. ESCOM has used the District Councils to pay compensations to PAPs. If compensations are more than MK50,000, a bank account transfer is made to PAPs and there is a financial disclosure that is done before and after the payment. However, there have been complaints from PAPs that sometimes these payments are not done on time and sometimes not fully paid even after ESCOM had paid fully to the districts councils.
	20th August 2022 ESCOM Office Blantyre	Mr. Alex Kaitane - Senior Project Management officer	MEPRP is based on a study called Geospatial Electricity Needs of Malawi. The study recommends that most people be closer to the National Grid and hence it will be easy to connect them to the existing Grid. Therefore, MEPRP will focus more on the distribution and drop-down connections to new customers. Environmental and compliance issues will be enforced by ESCOM through the PIU to ensure that contractors do not undertake any shortcuts or cause additional social and environmental damage. On the use of wooden poles, ESCOM has been learning about the benefits (financial and environmental) of concrete poles. This can be piloted in MEPRP as this will be new technology and material for ESCOM. There is a need to increase the capacity of the Environmental and social section regarding knowledge and staff numbers to ensure that these issues are handled on time and efficiently. The current capacity is very low and MEPRP could help to build this capacity for ESCOM.
	20th August 2022 ESCOM Office Blantyre	Mr. Jack Thabwa - Senior Procurement manager	ESCOM is yet to finalise its procurement framework. However, there is a great deal of consideration when procuring materials and equipment regarding their environmental impacts both during use and disposal after use. There will provide a framework that will be set up for procuring goods in MEPRP that will factor in environmental and social issues during the bidding process. The materials to be used in MEPRP and labor will be locally sourced. The main materials like wooden poles will be sourced and labor will be locally sourced. Labor will be sourced with

Institution	Date and Venue	Name and details	Remarks
			consultation with local leaders. Cement poles are a very good and sustainable way to go. However, ESCOM has not fully endorsed these poles. There has been discussion and even education visit to Zimbabwe on concrete poles. There are dangers associated with wooden poles like the chemical treatment that may pollute the soil around and even the workers who handle them when installing. MEPRP will distribute energy saver bulbs too to ensure that the consumers learn about these environmentally friendly bulbs. However, the project will also include education on waste management of the bulb after use. The Project will endeavour to work closely with District Councils to construct bulb disposal bins in the location of the project.
	21th August 2018 ESCOM Office Blantyre	Mr. Wiseman Kabwazi Mr. Clement Kana Mr. Chifundo Kameko	The project will focus mostly on consumers in peri urban areas of Blantyre, Lilongwe, Mzuzu, Karonga, Salima, Kasungu Mangochi and many other rural areas. The target will be both high density and low-density areas. The target is to have at least ten ready customers per transformer and target a radius of 1 km around the transformer. There will be a challenge in high-density areas to install additional poles, and transformers as this will demand to access land and acquiring private properties. However, with experience from other projects, MEPRP will work with the communities to ensure efficient targeting and supply of electricity to all demanding customers. Concrete poles are better than wooden poles in high-density areas as they are not easily damaged from fires and sources of danger. However, there is currently no quality supplier of concrete poles in Malawi. This may have to be seriously looked at as the concrete poles will save much money in maintenance mostly in high-density areas where accessibility with large vehicles and machinery or a problem. On waste management, the project or the district councils should have bulb crushers in different sites to handle in the increased number of bulbs that will be a waster after use but the consumers. Record keeping is a big problem in ESCOM. Grievances and compensations have not been well kept enabling learning and correcting issues that keep reoccurring. There is a need to have the customer service keep records of all grievances and complaints and final compensation made. This will ensure that lessons and learnt, and future complaints well managed and eventually reduce. There is a need to keep GPS coordinated of all installation and sources of grievances. This will ensure easy tracking of issues and help in formulating long-lasting solutions. There is a need to increase enforcement of ESCOM team to enforce several issues like wayleaves maintenance and vandalization of electrical equipment

Discussions with the communities

Balaka	The community members interviewed expressed their happiness with the development. However, 1 PAP expressed that they were not compensated for their piece of land in the area Larsen and Toubro used for their office space for the Phombeya project some years back.
Chikwawa	Communities complained that during the construction of the line under MAREP, the compensations process was not transparent and took too long. They also expressed that not all landowners received their compensations.

Chiradzulu	The community is happy with the project and looking forward to accessing electricity. However, they have experienced some issues when ESCOM is constructing distributions line regarding advance communications and warnings.
Mulanje	Some farmers complained that ESCOM Vehicles drive through their field damaging their crops. During installation and maintenance of lines.
Nsanje	The communities expressed their desire to have a responsive GRM where they can lodge their complaints with confidence that they will be resolved in a timely manner.
Phalombe	Some communities complained that ESCOM staff would enter premises without permission to maintain the lines. If ESCOM staff are asked why they are trespassing, they felt ESCOM would retaliate with not connecting their households to power.
Thyolo	They expressed poor communication between the ESCOM staff and the rural community. The communities stated they are not consulted until the day ESCOM comes to work and have their trees cut without consent or communication.

4. RESETTLEMENT IMPLICATIONS OF MEPRP

4.1. Project Activities with Resettlement Potential

During the implementation of MEPRP, under component 2, the rehabilitation of 11kV, 33kV, 66kV and 132kV overhead lines may lead to the temporary acquisition of some portion of land in some project sites for access roads. These investments will also likely affect assets and livelihoods. The exact impact of the investments under the MEPRP is not yet known and will only be known when the actual sites for the distribution lines are identified. However, it is expected that the impacts will vary in degree depending on the nature of investments under the MEPRP.

The main investments/projects envisaged to have resettlement potential are listed below. However, this list is not exhaustive and other types of investments may be identified under the MEPRP during its implementation.

- Construction of distribution and transmission lines (mainly the 11, 33, 66 and 132kV);
- Installation of 33/11kV transformer and its associated switchgear and 132kV switchgears

The above activities may demand that assets or livelihood activities be moved to accommodate the installation of the project infrastructure. This will require people in those designated areas to relocate assets and livelihoods to other areas either temporarily or permanently.

4.2. Nature and Extent of Impacts affecting Resettlement

4.2.1. Physical displacement

If people must move to another location due to the implementation of a subproject under MEPRP, as is required by the Land Act 2016, the affected people will be offered choices including adequate replacement housing, land, or cash compensation as appropriate. In accordance with ESS 5, displaced PAPs will also be provided full relocation costs above the compensation amount. Particular attention will be paid to the needs of the poor and the vulnerable, who will be aided through capacity enhancement during RAP implementation to adapt to new environments.

In the case of physically displaced persons with known or recognizable rights, the project will offer the choice of replacement property of at least equal value, equivalent or better characteristics and equal or better location or cash compensation at full replacement value. Where displaced persons own and occupy structures, the project will compensate them for the loss of assets other than land, such as dwellings and other improvements to the land at full replacement cost.

The Land Act 2016 and the Customary Land Act, 2016, the legal instrument governing land acquisition and compensation in Malawi, specifies that all PAPs must receive just compensation, including costs related to moving, disturbances, and legal fees for land transactions of the PAPs. This presents a gap where if not adequately interpreted may negatively affect compensation to PAPs. For that reason, in all instances where compensation will be undertaken, Bank policies will apply and will require that compensation is paid at full replacement costs by ESCOM.

4.2.2. Economic Displacement

If land acquisition or any other project activity under MEPRP causes loss of income or livelihood, regardless of whether the affected people are physically displaced, the project will meet the following requirements:

Promptly compensate economically displaced persons for loss of assets at full replacement cost;

In cases where project activities affect commercial structures, compensate the affected business owner for the cost of re-establishing commercial activities elsewhere, for lost net income during the period of

transition, and for the cost of transfer and reinstallation of plants, inventory, machinery, and other equipment;

Provide replacement property (e.g., agricultural or commercial sites) of equal or higher value, or cash compensation at full replacement cost where appropriate, to persons with legal rights or claims to land which are recognized or recognizable;

Compensate economically displaced persons who are without legally recognizable claims to land for lost assets (such as crops, irrigation infrastructure and other improvements made to the land) other than land, at full replacement cost;

Provide additional targeted assistance (e.g., credit facilities, training or job opportunities) and opportunities to improve or at least restore their income-earning capacity, production levels, and standards of living to economically displaced persons whose livelihoods or income levels are adversely affected;

Provide transitional support to economically displaced persons, as necessary, based on a reasonable estimate of the time required to restore their income earning capacity, production levels, and standards of living.

In particular, the taking of land and related assets will take place only after full compensation has been paid and where applicable, resettlement sites, new homes, related infrastructure, public services, and relocation costs have been provided to economically or physically displaced persons.

4.3. Description of Potential Socio-Economic Impacts of Resettlements

Resettlement within context of implementation of MEPRP encompasses land acquisition and relocation of existing people from the existing homesteads; impact on assets even if affected person does not need to relocate; restricted access to (natural resources) national parks or legally designated protected areas; and negative impacts on livelihood. Such resettlement exercises undertaken whether within rural communities or urban setting trigger a number of negative externalities on the affected people. In general, some impacts emanate from the consequences following loss of access to their settlement sites, others from losses of physical assets and loss of access to their traditional productive assets. Furthermore, some impact arises from loss of social cohesion and relations. Examples of potential socio-economic impact from such sources are outlined below:

Table 3 Summary of Main Social and Economic Impacts from Resettlement Activities

Category of losses	Social and economic impacts
Displacement from land	Landlessness Loss of productive resource for agriculture and other businesses
Loss of residential property and homestead	Landlessness, homelessness Impoverishment of people Disturbance of house production systems Loss of sources of income Loss of or weakening of community system and social networks. Loss of access to ancestral sites, graveyards Loss of access to social amenities such as hospitals and schools. Loss of traditional authority.
Loss of assets or access to assets	Impoverishment Loss of sources of income Loss of employment opportunities (self-employment)
Loss of income sources or means of livelihood	Impoverishment Loss of self-employment opportunities Disruption of attainment of services such as schools, health services resulting in further impoverishment, malnourishment

Category of losses	Social and economic impacts
Loss of identity and cultural survival	Alienation of persons from their tribal society Lack of access to community support
Loss of access or proximity to social amenities e.g. water sources, (e.g. boreholes), schools, hospitals and clinics, markets	Impoverishment. Loss of sources of income Increased time to access resources. Loss or shortage of time for other activities. Increase in waterborne diseases
Blockage of footpaths/pathways	Increase in travel distance due to longer route
Loss of grazing land	Difficulties in rearing livestock
Blockage of access to public water bodies	Difficulties in collection of water for domestic uses Difficulties in collection of water for irrigation

5. OVERVIEW OF LAND USES IN MALAWI

5.1. Land Tenure Regimes in Malawi

Malawi embraces the capitalistic ideas about land ownership. There are currently two legally recognized tenure regimes operating in Malawi: the public tenure system and the private tenure system (Land Act, Amendment Act 2022). The description and extents of the classes of land in Malawi are as follows:

Public land: Land held in trust and managed by the Government or Traditional Authorities and openly used or accessible to the public at large.

- Government land comprises land acquired and privately owned by the government and dedicated to a specified national use or made available for private uses at the discretion of the government. This includes land reserved for government buildings, schools, hospitals, etc., or government-owned land leased for exclusive use by individuals, companies and institutions for which ground rent is often paid. This category of land also includes land gazetted for use as national parks, recreation areas, forest reserves, conservation areas, historical and cultural sites, etc. The public land designation also applies to all land vested in the Government as a result of uncertain ownership, abandonment and land that is unusable for one reason or another.
- Within a Traditional Authority (TA), the community's public land includes all land within the boundaries of the TA not allocated exclusively to any group, individual or family. This designation applies in particular to dambos, dry season communal grazing areas, etc. Such common access or unallocated customary land reserved for the community are regarded as public only to members of that community and will be protected.
- Private Land is all land that is exclusively owned, held or occupied under (a) freehold tenure, and (b) customary land allocated exclusively to a clearly defined community, corporation, institution, clan, family or individual. Such exclusive allocations of customary land will henceforth be known formally as a "customary estate."

5.1.1. Land Tenure and Site Preparation

The land identified for the proposed rehabilitation of the transmission and distribution line infrastructures are pre-dominantly located on ESCOM owned land. The land was acquired by ESCOM and has been used by ESCOM in its operation to supply electricity. In this regard, ESCOM has authority to rehabilitate their system in order to improve service delivery. Site clearing and trench excavation will require erosion and sediment control measures to maintain excavated material and sediment on site and minimize erosion on site during rainfall events. Poor erosion and sediment control measures may result in sedimentation of downstream water sources or erosion of slopes on site. Removal of mature trees during construction will be avoided as far as possible, but if unavoidable will be replaced by planting five new saplings of trees at the site or within the community.

5.1.2. Access Roads

The roads leading to the proposed project sites are earthen roads and pose difficulties to travel during the rainy season because of the mountainous terrain, swampy and slippery clay soils that dominate the districts. These roads will need continuous maintenance throughout the construction of the infrastructures. In operation and maintenance phase, ESCOM will use already existing roads to the site. The access routes to the sites are typically existing roads, footpaths, or some already existing access route. For narrow paths, the contractor will widen so that construction machinery can access the sites.

6. LEGAL AND REGULATORY FRAMEWORK

The chapter sets out the legal operating environment for acquisition of land that will be applied to the implementation of MEPRP and seeks to highlight major issues related to Malawi's land legislation with regards to compulsory land acquisition and involuntary resettlement. It provides a brief overview of Malawi's Land Policy, Malawian Constitution 1994 and related provisions connected with the land use, planning, acquisition, management and tenure, and more specifically the legislation related with land expropriation or acquisition, land valuation and land replacement. Table 1 presents the list of legislation and policies that are important and will be used in implementing this RPF. The chapter further compares the Malawian legislation with the World Bank provisions on resettlement, with gaps highlighted and recommendations are drawn to fill gaps.

6.1. The Constitution of the Republic of Malawi (1995)

The Constitution of the Republic of Malawi is the supreme law of the land. All other pieces of legislation or acts of government are valid to the extent of their consistency with the Constitution, according to section 5 of the Constitution. Several judgments of the High Court and even the Supreme Court confirm the position. It is, therefore, imperative that the project complies with this and, indeed, any other relevant laws.

Under section 13 of the Constitution, the State has the responsibility to ensure gender equality, responsible environmental management, and enhancement of the quality of life in rural communities, among others. The Constitution uniquely provides for the right to development in section 30, which not only confers the right but also places responsibility on the State to take all necessary measures for the realisation of the right to development. To the extent that the MEPRP is no doubt a development, it is aligned to the spirit of the constitution. It is nevertheless imperative to examine key legal rights accorded to potential PAPs under the project. In terms of equality, generally, section 20 of the Constitution prohibits discrimination of any form and on account of any status.

Women have special protection under section 24 of the Constitution in that "Women have the right to full and equal protection by the law, and have the right not to be discriminated against on the basis of their gender or marital status which includes (a) to be accorded the same rights as men in civil law, including equal capacity to (i) enter into contracts, (ii) acquire and maintain rights in property, independently or in association with others, regardless of their marital status...and any law that discriminates against women on the basis of gender or marital status is invalid..." Special recognition of women's rights under the project is, therefore, necessary where applicable. Cultural practices that tend to discriminate against women need to be handled cautiously under the project.

In recognition of intergenerational equity, section 13(d) compels the state to manage the environment responsibly to prevent degradation of the environment, provide a healthy living and working environment for the people of Malawi and accord full recognition to the rights of future generations by means of environmental protection and sustainable development of natural resources.

Regarding protection of property rights, the Constitution has three key sections on the subject (section 28, 24 and 44). Section 24 concerns women's rights as discussed above. On the other hand, section 28 entrenches the right to property. It provides that "every person shall be able to acquire property alone or in association with others, and that no person shall be arbitrarily deprived of property. According to section 44(2) "expropriation of property shall be permissible only when done for public utility and only when there

has been adequate notification and appropriate compensation, provided that there shall always be a right to appeal to a court of law". In Malawi, the courts have held that this constitutional protection of property rights avails to customary and registered land alike.

The same Constitution in section 44(1) says that no restriction or limitation may be placed on any constitutional rights unless such restriction is prescribed by law, is reasonable, is recognised by international human rights standards and is necessary in an open and democratic society. It needs to be noted that this criterion is cumulative.

In implementing the project, MEPRP must, therefore, exercise care and caution in all the project stages; given those activities of the project may be the subject of constitutional challenges, even if they passed the statutory steps. However, the project's RPF principles 1 and 2 are aimed at ensuring that cases of relocation of people, resettlement and compensation are avoided as early as possible during project site selection and resettlement screening.

6.2. The National Land Policy 2002

The policy recognizes the free enjoyment of legally acquired property rights in land and that a landholder is entitled to compensation in the event that his land is acquired by government for public use. The policy emphasizes that customary land has value and as such, compensation for such land has to be based on the market value of the land and all permanent improvements on the land at the time of acquisition.

The land that will be required for the project may fall under customary or private tenure and the developer will have to ensure that the affected people receive fair compensation for their land and the property they will lose based on the current market value. The money they will receive should enable them to settle comfortably wherever they will be relocated and restore the source of livelihood.

The policy further highlights that compensation is inadequate at times because certain items or qualities are excluded during the assessment to determine their value and that there are always delays in the payment once the value has been determined. This should be taken into account during the RAP preparation process to ensure that all items are taken into account during assessment and that the affected people receive their compensation in time before the commencement of the project implementation.

6.3. Land Act(Amendment Act 2022)

Section 18 of the act provides for the compensation of customary land in cases where it is required for public use. The section also provides for any person who suffers any disturbance or loss or damage to any property to be paid reasonable compensation for such disturbance, loss or damage. The developer will have to compensate the people who will be affected by the implementation of the project for loss of land or access to it as well as the developments on the land as has been provided for in this act.

6.4. The Lands Acquisition and Compensation Act 2016

The Lands Acquisition and Compensation Act No. 9 of 2016 has amended some provisions of the Lands Acquisition Act, the main one being that the Amendment Act now provides for the acquisition and compensation of land in the citation. Section 3 of the Act read with the Amendment Act Empowers the Minister responsible for lands whenever he is of the opinion that it is desirable or expedient in the interests of Malawi, to acquire land for public utility, either compulsorily or by agreement, and pay compensation as may be agreed or determined under the Act. Sections 5-7 of the Act provide for the issuing of notices upon the persons who are possessed of an interest in the land. According to section 12 of the Amended Act, when a notice to acquire land has been issued and published, the land shall revert to the Government

as public land within two months of the publication of the notice. Section 9 as amended provides for the payment of compensation. It provides that where any land is acquired by the Minister under this Act, the Minister shall pay in respect thereof appropriate compensation agreed or determined in accordance with the provisions of this Act. The Amendment Act further provides that compensation shall be paid in one lump sum; therefore, the assumption is that compensation shall only be monetary. Amended provisions relating to assessment of appropriate compensation provide that an assessment is to be done by an independent valuer appointed by the Minister, unless the parties agree otherwise. The Amendment to the Act also provides information on the grounds on which compensation can be calculated which include; loss of occupational rights, loss of land, costs of professional advice and disturbances which are a natural and reasonable consequence of the disposition of land. The Amendment has inserted substantive provisions on matters to be taken into consideration in assessing compensation for alienated land under section 10A. Section 11 of the Act deals with the effect of payment of the compensation and states that a person who has been paid compensation for land cannot make further claims in respect of the land. However, this does not prevent any subsequent proceedings against the person to whom the same was awarded by any person claiming to have a better right to the compensation or the right to a share thereof.

6.5. The Registered Land Act 2016

The Act makes provision for the registration of title to land and for dealings in land that has been registered. The Act has been amended several times since 1967 with the most current amendments passed in 2016. The Amendment Act amends some provisions in the Registered Land Act including new definitions of customary estate and land to ensure conformity with the Land Act, 2016.

6.6. Customary Land Act, 2016

This is an Act that provides for the management and administration of customary land and for matters connected in addition to that and incidental to it. The customary land shall be transferred subject to: payment of appropriate compensation as assessed by a registered valuer and agreed upon between the land committee and the Commissioner; or where subsections (4) and (10) apply, the persons referred to in those subsections and the Commissioner; if Government or reserved land is to be exchanged with customary land which is the subject of the transfer, Government will identify an alternative piece of land to be transferred to the Traditional Land Management Area or the affected persons as the case may be.

6.7. Land Survey Act 2016

The Land Survey Act provides for land surveys, the establishment of the Land Surveyors Registration Board, the licensing and control of land surveys, survey marks and boundaries and the establishment of the Malawi Geographic Information Council.

6.8. Monument and Relics Act (Cap 29:01)

Graves are among the monuments that are protected under the monuments and relics act. The chief antiquities officer is given the power to preserve and protect all monuments entrusted to his care under section 4 (a) of the act. Section 13 (b) of the act states that no person shall without prior consent of the minister carry out any cultivation or mining project or other work so as to cause or likely to cause damage or disturbance to any protected monument or protected relic. In preparing RAPs, consultants will have to consult the Department of Antiquities to ensure that they have consent from the chief antiquities officer to exhume bodies in the event that the implementation of the project will affect an existing graveyard.

6.9. Forestry Act (1997)

The Act provides for the management of indigenous forests on public, customary, and private land. Section 46(a) states that no person shall cut, take, fell, destroy, uproot, collect and remove forest produce from a

forest reserve, customary land, public land and protected forest area. In compliance with this section, alternative site selection for replacement of affected land should be done in compliance with this provision. They will also have to promote forestation programmes to reduce the pressure on existing forest products with time.

6.10. Public Roads Act (Amendment) 2017

The Public Roads Act is the most comprehensive of all Acts that deal with compensation in providing guidance on the assessment of land and assets. It will provide guidance during the valuation exercise for the compensation of the people affected by the implementation of the proposed project activities. Section 45 states that compensation has to be paid in cases where: A person has to move his residence or place of business; Where no alternative land can be made available to him; and Where he will have to spend money in order to make the land that he will be given as a replacement fit for cultivation. The act also provides the factors that should be taken into account when assessing the amount of compensation in section 46 to include: The open market value of land or interest at the valuation date; The damage if any sustained by the person interested in the valuation; and Any increase in the value of the other land or other benefit of the person interested.

6.11. Town and Country Planning Act (1988)

The project will also target urban and peri urban areas which are statutory planning areas established under the Town and Country Planning Act. The act regulates the use of land and provides guidelines for the planning and management for all development activities in the country especially those in statutory planning areas. It is, therefore, a requirement for all development within a statutory planning area to seek permission from the planning authority before being implemented. In resettling the displaced persons within districts that are planning areas, the developer will have to ensure that PAPs submit their development plans to respective Town Planning committees so that they are approved before commencement of the redevelopment exercise.

Section 40 of the Act also requires Local Councils to ensure that negative environmental impacts of projects are avoided. The implication of this provision for the proposed project is that PAPs are allocated land that is zoned for the use and should monitor the implementation of their development to ensure that they are complying with the zoning to ensure environmental protection during construction and operation of their various developments.

Parliament passed the Physical Planning Act of 2016 which provides for a developer to seek permission for development activities on any parcel of land regardless of tenure. In the event that the sub projects will be implemented after the new law comes into force, PAPs will be required to submit development plans for the redevelopment of their structures to the respective planning authorities for approval before commencing construction works.

6.12. National Gender Policy (2000)

The project-affected people will include women, men, the youth, and girls some of whom may be vulnerable. The National Gender policy provides gender mainstreaming in in the planning and implementation of projects to ensure that the needs of different groups of people affected by a project are taken care of in a manner that promotes equity. The developer should ensure that principles that promote equity among different groups are applied in the assessment and implementation of the RAPs that will be prepared to facilitate the compensation and resettlement of the PAPs.

6.13. The Physical Planning Act 2016

The Act repeals the Town and Country Planning Act. It provides for physical planning and the orderly and progressive development of land in both rural and urban areas and for issues relating to the grant of permission to develop land and for other powers of control over the use of land. The Act is administered by the Commissioner for Physical Planning and also provides for the establishment of the Physical Planning Council. The Act provides for development permission including application forms, processing and revocation. Section 54 provides that a person shall not commence the development of any subdivision of any land unless he first obtains a grant of development permission. In addition, a person applying for the registration of any land under the Registered Land Act must attach a copy of the grant of development permission in order for his documents to be considered.

Part VII of the Act deals with acquisition of land and compensation. The section provides that the Minister may acquire any land, either compulsorily or by agreement if it is considered desirable or expedient in the interests of the implementation of any plan of the proper control and furtherance of development of any land under the Act. Compensation will be paid in accordance with the Lands Acquisition Act as amended. Section 68 of the Act provides for occasions when compensation is payable for planning actions, section 69 deals with how compensation can be assessed and section 70 provides for how a claim for compensation can be made. The Second Schedule of the Act is on the calculation of compensation under section 68.

The Act provides for circumstances when an appeal can be made and the fact that an appeal can be made to the Council. A person aggrieved by a decision of the Council may apply to the High Court for judicial review.

6.14. The Local Government (Amendment) Act 2017

The Local Government Amendment Act, 1998 consolidates the law relating to local government. Section 34 of the 1998 Act provides for the acquisition of land by Agreement. It states that for the purpose of (a) any of its functions under this Act or any other written law; or (b) the benefit, improvement or development of its area, the Assembly may acquire whether by way of purchase, lease, exchange or gift, any land, whether situated inside or outside its area. Subsection 2 of section 34 of the 1998 Act has been deleted and substituted with a new subsection 2 that provides that subject to the provisions of the Land Acquisition Act, the Council may acquire land to be used for any of the Council's functions. The Amendment Act also amends the principal act by providing that the Council may dispose of land held by it in accordance with the Land Act 2016 and the Registered Land Act 2016.

6.15. Overview of the World Bank Environmental and Social Standard on Land Acquisition, Restriction on Land Use and Involuntary Resettlement (ESS 5)

The Environmental and Social Standard 5 recognises that project related land acquisitions on land use can have adverse impacts on communities and persons. The following are its objectives:

- Avoid or minimise involuntary resettlement by exploring project design alternatives.
- Avoid forced eviction.
- Mitigate unavoidable adverse impacts from land acquisition or restrictions on land use through timely compensation for loss of assets at replacement cost and assisting displaced persons in their efforts to improve, or at least restore, livelihoods and living standards in real terms to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.

- Improve living conditions of poor or vulnerable persons who are physically displaced, through provision of adequate housing, access to services and facilities, and security tenure.
- Ensure that resettlement activities are planned and implemented with appropriate disclosure of information, meaningful consultation, and informed participation.
- To avoid involuntary resettlement or, when unavoidable, minimize involuntary resettlement by exploring project design alternatives.
- To avoid forced eviction.
- To mitigate unavoidable adverse social and economic impacts from land acquisition or restrictions on land use by: (a) providing timely compensation for loss of assets at replacement cost and (b) assisting displaced persons in their efforts to improve, or at least restore, their livelihoods and living standards, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.
- To improve living conditions of poor or vulnerable persons who are physically displaced, through provision of adequate housing, access to services and facilities, and security of tenure.
- To conceive and execute resettlement activities as sustainable development programs, providing sufficient investment resources to enable displaced persons to benefit directly from the project, as the nature of the project may warrant.
- To ensure that resettlement activities are planned and implemented with appropriate disclosure of information, meaningful consultation, and the informed participation of those affected.

Where resettlement is unavoidable, the standard stipulates criteria for eligibility to compensation, resettlement assistance and rehabilitation assistance measures to project affected persons on the following conditions:

- Those who have legal rights to land or assets, including customary and traditional rights recognised under the legal laws or traditional practices of Malawi. This class of people includes those holding leasehold land, freehold land and land held within the family or passed through generations.
- Those who have no legal rights to land or assets at the time of the census but have a claim to such land or assets provided that such claims are recognised under the legal or traditional laws of Malawi.
- Those who have no legal right or claim to the land or assets they are occupying or using prior to an established cut-off date (date of original census). This class of people includes squatters and those that settle at a place on semi-permanent basis.

The World Bank requires best international practice in resettlement matters and requires the host government entity to apply Environmental and Social Standard 5 (ESS5) on involuntary resettlement to all activities under the project. The World Bank defines involuntary resettlement as physical displacement (relocation, loss residential land or shelter), economic displacement (loss of land, assets or access to assets, leading to loss of income sources or other means of livelihood), or both. Nonetheless, it is appreciated that the ESS5 take precedence in the case where national practices are below those of the World Bank. The ESS5 states that Replacement Cost as a rate of compensation for lost assets must be calculated at market value plus and other assistance as may be necessary to help them improve or at least restore their standard of living or livelihoods. It further expects the Project to compensate affected people for loss of physical assets, revenue and income resulting from economic displacement or physical relocation regardless of whether these losses are temporary or permanent. Regarding land and structures (buildings), the replacement cost is defined as follows:

- Agricultural land: The market value (MV) of land of equal productive potential located in the vicinity of the affected land.

- Land in urban areas: The market value of the land of equal size and use, with similar or improved public facilities and services located in the vicinity of the affected land.
- Household and public structures: the cost of purchasing or building a new structure within the area, with land size and quality similar or better than those of the affected structure or of repairing a partially affected structure.

6.16. Gaps and how they will be addressed

The GoM does not have a specific policy for resettlement and compensation but the legal framework has changed in 2022 (Land Act, Amendment 2022) and compensation (not resettlement) issues have been addressed and provided legal basis for addressing land and resources that are affected by projects like the MEPRP. As such there are no clear guidelines on some of the elements of compensation which creates gaps in the process as compared to the World Bank which has a specific policy on involuntary resettlement. Gaps are also highlighted in that there is also no specific policy for Vulnerable people/Groups/households therefore the guidelines stipulated in ESS5 apply. Disadvantaged or vulnerable people/groups/households refers to those who may be more likely to be adversely affected by the project impacts and/or more limited than others in their ability to take advantage of a project's benefits. Such an individual/group/households are also more likely to be excluded from/unable to participate fully in the mainstream consultation process and as such may require specific measures and/ or assistance to do so. This will take into account considerations relating to age, including the elderly and minors, and including in circumstances where they may be separated from their family, the community or other individuals upon whom they depend.

For the purpose of this project, the World Bank policy on Land Acquisition and Involuntary Resettlement in ESS 5 will be used to fill the gaps in the local legislation. Standards Policies of the World Bank on resettlement and policies of Government of Republic of Malawi have a number of common aspects in management of resettlement. For example, both policies emphasise on minimisation of the extent of resettlement. Secondly, the policies recommend considerations of fair and adequate compensations to project affected persons. However, there are some gaps which exist between the standards of the World Bank and policies of Government of Republic of Malawi. A detailed comparative analysis is provided in Table 4.1. Some selected examples are as follows:

- On aspect of compensations on assets to project affected people, the standards of the World Bank on resettlement include illegally built structures of squatters as eligible for compensations on their assets. In case of Malawi, such claimants are not entitled to compensations.
- On aspects on compensations on land, the policies of Government of Malawi consider the different intrinsic values associated with various classes of land (customary land, leasehold land, freehold land, public land). In such cases, rates for compensation on land vary from one site to another and from one class of land tenure to the other. The World Bank standard does not distinguish such differential aspects of land classes and corresponding different market rates.
- In cases of compensation of loss of land by project affected people, the World Bank standard prefers land for land compensation. In Malawi, the most preferred option for compensation is land for money in both urban areas and rural areas.

World Bank standards clearly stipulate resettlement as an upfront project – in that all issues of land acquisition and relocation of project affected people has to be done prior to commencement of the project on the acquired site. Malawi Government legislation does not clearly spell out this approach and, in practice, resettlement is treated as a separate exercise outside project planning and implementation process. World Bank Standards clearly recommends for adequate resettlement assistance and rehabilitation

assistance to relocated people as a way of restoring and enhancing socio-economic living standards. This is supposed to be undertaken within the first years of relocation on the new sites. Malawi legislation does not clearly define the extent of resettlement assistance to relocated people. Much of available support is normally left in hands of District Commissioner and local chiefs within the district and area of relocation of the project affected people.

6.17. Appropriate Measures for Addressing Identified Gaps between the Policies in Implementation

Discrepancies between standards of the Bank and the Government will be dealt by focusing on policy aspects which positively favour the project affected persons and leave out those which negatively impact on the project affected persons. This recommendation is on the observation that the common position between World Bank Standard on Resettlement and the Constitution of Republic of Malawi on resettlement is the guarantee of fair and adequate compensation and adequate resettlement assistance for the project affected person. In this regard, suitable options to be adopted are as follows:

- Compensations should be paid to all categories of project affected people so long they are covered within the cut-off date.
- Include squatters, vendors' stalls/hawkers as PAPs.
- No civil works should start prior to the compensation of the last PAP. This simply means that PAP should be considered first prior to the Bank allowing projects to jumpstart its implementation works.

Table 3 below outlines the provisions in the local legislation and World Bank policy on resettlement and compensation.

Table 4: Comparison of Malawi Laws and World Bank Requirements

<i>Project affected person</i>	Provisions from relevant laws of Government of Malawi		World Bank ESS 5 Provisions on the aspects	<i>Appropriate measures for addressing the gaps</i>
	Name of Legislation	Provision within piece of legislation in Malawi	World Bank Provisions on the aspects	
<i>Land Owner/ Occupier</i>	Public Roads (Amendment Act) 2017	<p>The Act and its amendment stipulate payment of compensation based on loss or damage suffered by the claimant arising from the damage to or destruction of his interest in the surface rights on such land.</p> <p>This damage or loss includes: the damage sustained because of the severance of such land from his other land or other injurious matter affecting his other movable or immovable property and if the claimant is compelled to change his residence or place of business, the reasonable expenses incidental to such change</p>	<p>ESS5 stipulates that land owners are entitled to compensation of land, compensation of building on replacement costs, expenses on labour</p> <p>The policy stipulates that land owners are entitled to compensation for crops</p>	<p><i>Compensation of land for land to project affected persons.</i></p> <p><i>Compensations on crops and trees on real replacement values.</i></p>
<i>Land Owner/ Occupier</i>	Public Roads (Amendment Act) 2017	<p>The Act and its Amendment stipulate that for customary estate, land owners are entitled to reasonable compensation in respect of disturbance</p> <p>This compensation shall be assessed using open market value based on the loss suffered by the claimant arising from damage to or destruction of his interest in the land, and the surface rights on such land may include compensation for other disturbance-</p> <ul style="list-style-type: none"> -where he should move his residence or place of business -where alternative land cannot be made available to him and the land remaining to him for any purpose is not an economic unit 	<p>ESS5 stipulates that the recommended option is compensation of land for land. Other losses to be compensated at replacement costs.</p> <p>The policy stipulates that temporary structures or buildings are entitled for compensation for loss of assets other than land or cash compensation at full replacement costs including labour and relocation expenses prior to displacement</p>	<p><i>Compensation of land for land to project affected persons will be the priority.</i></p> <p><i>Compensation of money for land to project affected persons in cases of lack of alternative suitable land.</i></p> <p><i>Compensation of all structures at full replacement costs and labour costs prior to displacement</i></p> <p><i>Compensations on crops and trees on market values.</i></p> <p><i>Resettlement assistance to project affected persons.</i></p>

<i>Project affected person</i>	Provisions from relevant laws of Government of Malawi		World Bank ESS 5 Provisions on the aspects	<i>Appropriate measures for addressing the gaps</i>
	Name of Legislation	Provision within piece of legislation in Malawi	World Bank Provisions on the aspects	
		-where alternative land is made available to him, and where in making the alternative land equally as fit for use as the land which he has been deprived of, is likely to involve a loss in terms of money, materials or work.		
<i>Land Owner/ Occupier</i>	Lands Acquisition and Compensation Act 2017	The Act and its amendment stipulate that compensation will be based on an assessment done by an independent valuer appointed by the Minister. The Act and its amendment stipulate that compensation is given when land is acquired.	ESS5 stipulates that owner of buildings built illegally are entitled to compensation for loss of assets other than land at full replacement costs including labour costs prior to displacement.	<i>Compensation of all structures at full replacement costs prior to displacement</i>
<i>Land Owner/ Occupier</i>	Lands Acquisition and Compensation Act 2017	The law stipulates that reasonable compensation should be given for loss of land by affected persons The Act and its amendment stipulate that in assessing compensation the following matters should be taken into consideration; -the market value of the land, or interest therein of the claimant at the valuation date -	ESS5 stipulates that owner of buildings built illegally are entitled to compensation for loss of assets other than land at full replacement costs including labour costs prior to displacement.	<i>Compensation of structures at full replacement costs and labour costs prior to displacement</i>
<i>Land Owner/ Owner</i>	Land Act 2017	The Act states that any person who suffers disturbance of, or loss or damage to any interest which he may have or may have had in unallocated customary land because of the land being acquired for public utility purposes should be paid reasonable compensation for such disturbance, loss or damage	ESS5 stipulates that land owners are entitled to compensation of land, compensation of building on replacement costs, expenses on labour	<i>Compensation of land for land to project affected persons. Compensations on crops and trees on real replacement values.</i>

<i>Project affected person</i>	Provisions from relevant laws of Government of Malawi		World Bank ESS 5 Provisions on the aspects	<i>Appropriate measures for addressing the gaps</i>
	Name of Legislation	Provision within piece of legislation in Malawi	World Bank Provisions on the aspects	
			The policy stipulates that land owners are entitled to compensation for crops	
<i>Encroachers</i>	Land Act 2017	<p>The Act states that a court order can be issued against alleged trespassers, encroachers, or unlawful users or occupiers to vacate land within 7 days or longer. The number of days to vacate land depends on a on several factors including; how long it would take the defendant to take down or remove structures, buildings, fences or improvements of any kind erected on the land; how long it will take the defendant to harvest, collect, take in or remove crops, plants, trees and shrubs and to how long it will take the defendant to remove any chattels belonging to him. Failure to comply with the Court order could lead to forced removal from the land by an authorized officer, police officer or officer of the court.</p> <p>The Act states that any person who uses or occupies any public land without title commits an offence</p> <p>The Act is silent on compensation for alleged trespassers, encroachers, or unlawful users or occupiers</p>	<p>ESS5 stipulates those persons are entitled to compensation regardless of the legal status of their structures or occupation of the land</p> <p>The Standard stipulates those owners of buildings built illegally are entitled to compensation for loss of assets other than land at full replacement costs including labour costs prior to displacement</p> <p>The Standard stipulates those owners of buildings built illegally are entitled to compensation for loss of assets other than land at full replacement costs including labour costs prior to displacement.</p>	<p><i>Compensation of all structures at full replacement costs prior to displacement</i></p> <p><i>Compensations on crops and trees on real replacement values.</i></p> <p><i>Compensation on labour costs based on real replacement values.</i></p>
<i>Land Owner/Owner</i>	Customary Land Act 2016	The Act states that customary land shall be transferred subject to payment of appropriate compensation assessed by a registered valuer and agreed upon by the land committee and the	ESS5 favours land for land compensation in cases of loss of land by project affected persons.	<i>Compensation of land for land to project affected persons.</i>

<i>Project affected person</i>	Provisions from relevant laws of Government of Malawi		World Bank ESS 5 Provisions on the aspects	<i>Appropriate measures for addressing the gaps</i>
	Name of Legislation	Provision within piece of legislation in Malawi	World Bank Provisions on the aspects	
		Commissioner or between a person or representative of group of persons under a customary estate or those with a derivative right to use the land and the Commissioner The Act favours land for land compensation. It provides that if Government or reserved land is to be exchanged with the customary land which is the subject of the transfer, Government will identify an alternative piece of land to be transferred to the Traditional Land Management Area or the affected persons.	The Standard stipulates those owners of buildings built illegally are entitled to compensation for loss of assets other than land at full replacement costs including labour costs prior to displacement.	<i>Compensation of structures at full replacement costs prior to displacement</i>
<i>PAPs</i>	Environment Management Act of 1996 and the Environmental Impact Assessment Guidelines	The Act and the Guidelines require a socio-economic and environmental assessment to be conducted on the impacts of the proposed project. This can include determination of eligibility for compensation. The EIA Guidelines also provide for meaningful consultations to be conducted.	ESS5 advocates identification of persons who will be affected by the project to determine who will be eligible for assistance and to discourage inflow of people who will be ineligible The Standard also requires meaningful consultations with affected persons and communities, local authorities, and, as appropriate, nongovernmental organisations (NGOs)	<i>Identification of person who will be affected by the project Consultations to be conducted with affected persons and communities</i>

7. ELIGIBILITY CRITERIA, ENTITLEMENT, VALUATION AND COMPENSATION

7.1. Categories of Project Affected Persons

Affected groups under various MEPRP investments are categorized into five groups namely: -

- Project affected Individuals whose assets may be lost and affected, including land, property, other assets, livelihoods, and/or access to natural and/or economic resources because of activities related to a given investment under MEPRP.
- Project affected households are groups of PAPs in one household and where one or more of its members are directly affected by a given investment/project under MEPRP. These include members like the head of household, male, and female members, dependent relatives and members, tenants, etc.
- Project affected enterprises are business enterprises that have already been established in the community centres These will be in trading centres and market places which may have to be relocated to pave the way for the distribution and transmission lines.
- Affected local community – A community is affected if project activities affect their socioeconomic and social-cultural relationships or cohesion. For example, project activities could lead to loss of welfare or cultural erosion etc. In addition, the investments under MEPRP can cause the breakdown of communities and social networks due to the introduction of potential new activities in the communities.
- Vulnerable groups may be individuals, households or parts of households. The investment/project will separately identify the vulnerable people, such as those who are too old or too ill; children; people Living with HIV/AIDS; Female Headed Households; unemployed youth, and orphans; Child-Headed Households; single parents with dependants; Elderly-Headed Households; etc. The vulnerable groups are eligible for additional assistance under this RPF, as is indicated in the Entitlement Matrix, Table 4.
- Non-farming women: These women earn income from other sources and/or depend on relatives for exchanges of staple foods. Because they do not farm, they will not be affected by a sub-project's need for agricultural land. However, if a building owned by a woman lies on land needed by a sub-project, they will receive replacement cost compensation. If someone on whom they depend is displaced/resettled, they are protected because the displaced/resettled person can name them as part of the household.
- Women and Youth Concerns: Vulnerable groups, especially women-headed households and the youths will obtain benefits equal to men in the project. Further, in some mitigation measures, they will be better placed with a view to enhance their economic and social wellbeing. A number of meetings will be held with the women groups and the youth during the RAP preparation to define the roles of women and the youth and how the project will benefit the two groups. The meetings will also look at the project benefits to women and the youth; raising awareness levels among women and the youth; and opportunities for women and the youth during the RAP implementation.
- Child-Headed Household: these are households headed by young children, usually 18 years of age or younger, with no social support;
- Single Parent (Female) with Dependent Children: these are households headed by women, where there is no husband or partner present (e.g., widows, unmarried women, others) and no other form of support present;

- Single Parent (Male) with Dependent Children: these are households headed by men, where there is no wife or partner present (e.g., widowers, unmarried men, others) and no other form of support present;
- Elderly-Headed Households with No Support System: these are households headed by an elderly male or female, aged 55 or above, or in some cases, less than 55 but with a lack of any social support services;
- Disabled-Headed Households: these are households where the head (male or female) have a physical disability;
- Ultra-Poor: these are households where the PAPs do not have a sustainable livelihood and access to income generation options and do not have assets or income sources. Those whose income is at or below US\$1 per day are included in this category.
- HIV/AIDS/ Chronically-ill: those who are HIV positive or chronically ill will also be classified as vulnerable.

Under MEPRP, vulnerable PAPs will be eligible for additional support which will help them to manage the resettlement process. Support to PAPs who are identified as vulnerable under MEPRP will be provided on an individual household basis. Additional monetary compensation for vulnerable PAPs will be considered in project-specific RAP. If impacts on this population are identified, the appropriate authorities will be notified immediately.

7.2. Vulnerable Assistance Measures

A Vulnerable Assistance Programme will be developed by MEPRP for specific RAPs to provide a safety net for vulnerable households. The objective will be to identify, assess, support, remediate, and monitor project-affected households experiencing severe hardship, as part of the overall Livelihood Assistance Package for each household. Vulnerable persons will be specifically identified, registered, and tracked through the following means:

- Analysis of RAP socio-economic survey data and casework on household composition, assets, the source of income, and food security
- Analysis of records or casework on each household being compensated
- Assistance may take the following forms, depending upon vulnerable persons' requests and needs:
- Assistance in the compensation payment procedure (e.g., specifically explain the process and procedures, make sure that documents are well understood);
- Assistance in the post-payment period to secure the compensation money and reduce risks of misuse/robbery;
- Additional cash to enable them to restore their livelihood
- Ensuring that the vulnerable enjoy equal opportunity during employment procedures;
- Where alternative farming land is to be found, ensure it is at the most easily accessible locations;

The support package to vulnerable persons may include compensation for any loss in income, or relocation or resettlement and will vary on a case by-case basis. Project Implementation Units (PIUs) and the District Social Welfare Department will be used to provide support to vulnerable PAPs. District Social Workers will also be responsible for providing necessary support to PAPs identified as vulnerable

and for carrying out other general additional social impact mitigation measures through the provision of social support on a case-by case basis for all vulnerable PAPs identified. Monitoring the treatment of vulnerable people during the compensation and resettlement process will be done as a specific focused activity. As with all aspects of the M&E system, care will be taken to keep it as simple as possible. This monitoring is to ensure that requirements are met and that any shortfalls are identified and covered.

7.3. Approximate Number of PAPs

Determination of the number of all the PAPs is not possible at this time because subproject investments have not been defined or identified in terms of location, nature, scope and magnitude. At this stage, project descriptions exist for general subproject investments to allow exact estimation of a number of the PAPs. However, estimated numbers of PAPs is not expected to exceed 200 individuals and businesses.

7.4. Entitlement Matrix

Table 5 shows the type of compensation for different PAPs in MEPRP project areas. This also presents the type of impact that will trigger a compensation from the project while taking into consideration the most vulnerable groups listed above.

Table 6: Entitlement Matrix

Matrix Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
Agricultural land	Less than 20% of landholding affected	Farmer/ title holder	Cash compensation for affected land equivalent to the replacement value
	Land remains economically viable. (i.e. land was productive at least in the last year)	Tenant/ leaseholder	Cash compensation for the harvest or product from the affected land or asset, equivalent to the average market value of last three years, or market value of the crop for the remaining period of tenancy/ lease agreement, whichever is greater.
	Greater than 20% of landholding lost Land does not become economically viable.	Farmer/ Titleholder	<ul style="list-style-type: none"> • Land for land replacement where feasible, or compensation in cash for the entire landholding according to PAP's choice. • Land for land replacement will be regarding a new parcel of land of equivalent size and productivity with a secure tenure status at an available location which is acceptable to PAPs. Transfer of the land to PAPs shall be free of taxes, registration, and other costs. Any taxes or associated fees will be borne by the GoM. • Relocation assistance (costs of shifting + assistance in re-establishing economic trees + livelihood rehabilitation assistance)
		Tenant/Leaseholder	Cash compensation equivalent to an average of last three years' market value for the mature and harvested crop, or market value of the crop for the remaining period of tenancy/ lease agreement, whichever is greater.
			Relocation assistance (costs of shifting + assistance in re-establishing economic trees + livelihood rehabilitation assistance)
Land users	Impact on livelihood	Landless, encroachers	<ul style="list-style-type: none"> • Compensation to restore livelihood and will include compensation on of any assets including structures installed on the land.

Matrix Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
Commercial Land	Land used for business partially affected Limited loss	Title holder/ business owner	<ul style="list-style-type: none"> • Cash compensation for affected land • Opportunity cost compensation equivalent to 5% of net annual income based on tax records for the previous year (or tax records from comparable business or estimates where such records do not exist).
		The business owner is a leaseholder	Opportunity cost compensation equivalent to 10% of net annual income based on tax records for the previous year (or tax records from comparable business, or estimates where such records do not exist)
	Assets used for business severely affected If partially affected, the remaining assets become insufficient for business purposes	Title holder/business owner	<ul style="list-style-type: none"> • Land for land replacement or compensation in cash according to PAP's choice. Land for land replacement will be provided regarding a new parcel of land of equivalent size and market potential with a secured tenure status at an available location which is acceptable to the PAP. • Transfer of the land to the PAP shall be free of taxes, registration, and other costs. Any taxes or associated fees will be borne by the GoM. • Relocation assistance (costs of shifting + allowance) • Opportunity cost compensation equivalent to 2 months net income based on tax records for the previous year (or tax records from comparable business, or estimates)
		The businessperson is a leaseholder	<ul style="list-style-type: none"> • Opportunity cost compensation equivalent to 2 months net income based on tax records for the previous year (or tax records from comparable business, or estimates), or the relocation allowance, whichever is higher. • Relocation assistance (costs of shifting) • Assistance in rental/ lease of alternative land/ property (for a maximum of 6 months) to re-establish the business.

Matrix Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
Residential Land	Land used for residence partially affected, limited loss The remaining land is viable for present use.	Title holder	<ul style="list-style-type: none"> • Cash compensation for affected land
		Rental/leaseholder	<ul style="list-style-type: none"> • Cash compensation equivalent to 100% of lease/ rental fee for the remaining period of the rental/ lease agreement (written or verbal)
	Land and assets used for residence severely affected Remaining area insufficient for continuing use or become smaller than minimally accepted under zoning laws	Title holder	<ul style="list-style-type: none"> • Land for land replacement or compensation in cash according to PAP's choice, based on the replacement cost. • Land for land replacement shall be of the minimum plot of acceptable size under the zoning law/ s or a plot of equivalent size, whichever is larger, in either the community or a nearby resettlement area with adequate physical and social infrastructure systems as well as secured tenure status. • When the affected holding is larger than the relocation plot, cash compensation to cover the difference in value.
	Land and assets used for residence severely affected Remaining area insufficient for continued use or becomes smaller than minimally accepted under zoning laws	Rental/leaseholder	<ul style="list-style-type: none"> • Transfer of the land to the PAP shall be free of taxes, registration, and other costs. • Relocation assistance (costs of shifting + allowance) • Refund of any lease/ rental fees paid for time/ use after the date of removal • Cash compensation equivalent to 3 months of lease/ rental fee • Assistance in rental/ lease of alternative land/ property • Relocation assistance (costs of shifting + allowance)
Buildings and structures	Structures need to be removed	Owner	<ul style="list-style-type: none"> • Cash compensation for affected building and other fixed assets • Cash assistance to cover costs of restoration of the remaining structure

Matrix Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
	Even if Remaining structures are viable for continued use they still need to be removed	Rental/leaseholder	<ul style="list-style-type: none"> • Compensation for any remaining lease/rental payments at time of physical displacement. • Cash compensation for affected assets (verifiable improvements to the property by the tenant). Disturbance compensation equivalent to lease/rental payments for the time of physical displacement equivalent to 3 months.
	Entire structures are affected or partially affected Remaining structures not suitable for continued use	Owner	<ul style="list-style-type: none"> • Cash compensation for entire structure and other fixed assets without depreciation equal to replacement cost, or alternative structure of equal or better size and quality in an available location which is acceptable to the PAP. • Right to salvage materials without deduction from compensation
			<ul style="list-style-type: none"> • Relocation assistance (costs of shifting + allowance) • Rehabilitation assistance if required (assistance with job placement, skills training)
		Rental/leaseholder	<ul style="list-style-type: none"> • Cash compensation equivalent to 100% of lease/ rental fee for the remaining period of the rental/ lease agreement (written or verbal) • Relocation assistance (costs of shifting + allowance equivalent to four months rental costs) • Assistance to help find alternative rental arrangements • Rehabilitation assistance if required (assistance with job placement, skills training)
		Squatter/informal dweller	<ul style="list-style-type: none"> • Cash compensation for affected structure without depreciation • Right to salvage materials without deduction from compensation

Matrix Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
			<ul style="list-style-type: none"> • Relocation assistance (costs of shifting + assistance to find alternative secure accommodation preferably in the community of residence through the involvement of the project) • Alternatively, assistance to find accommodation in rental housing or a squatter settlement scheme, if available) • Rehabilitation assistance if required assistance with job placement, skills training)
		A street vendor (informal without	<ul style="list-style-type: none"> • Opportunity cost compensation equivalent to 2 months net income based on tax records for the previous year (or tax
		title or lease to the stall or shop)	<ul style="list-style-type: none"> • records from comparable business, or estimates), or the relocation allowance, whichever is higher. • Relocation assistance (costs of shifting) • Assistance to obtain alternative site to re-establish the business.
Standing crops	Crops affected by land acquisition or temporary acquisition or easement	PAP (whether the other owner, tenant or squatter)	Cash compensation equivalent to an average of last three years market value for the mature and harvested crop, plus the labour cost.
Trees	Trees lost	Title holder	Cash compensation based on type, age and productive value of affected trees plus 10% premium

Matrix Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
Loss of access to grazing	On livelihood	Households are undertaking grazing activities in the affected areas.	<ul style="list-style-type: none"> • Alternate Arrangements: Identification of alternative land • Economic rehabilitation assistance: Assist to facilitate this Ensure that the livestock owners have access to land for grazing or ways to sustain their livelihoods.
Loss of access to water sources	Loss of access to water for household use, for household plots, etc.	Affected households	Replace water access: Provide alternate access to water sources. Ensure that the investments' design takes into consideration different use and need for water and accommodate the users accordingly.
Loss of communal Properties such as burial grounds and places of worship, community centres, and social buildings	Loss of access to these sites, temporarily or Permanently, loss of investment made.	Communities affected	<ul style="list-style-type: none"> • Consultation: Undertake consultation with affected households to determine appropriate arrangements and Compensation if suitable. Replacing the social building such as schools and dispensaries.
Loss of livelihoods	Loss of means of livelihoods such as small production, such as collection of forest product, fishery, beekeeping, small dependent jobs on affected assets, such as sand, forest,	Communities are engaging in nonfarming livelihoods such as hunters and gatherers, fisherfolk, beekeeper.	Livelihood restoration programs: Undertake to help the affected communities restore their livelihood.

Matrix Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
	inaccessible water bodies and forest		
Temporary Acquisition	Temporary acquisition	PAP (whether the other owner, tenant or squatter)	Cash compensation for any assets affected (e. g. boundary wall demolished; trees removed)
		Vulnerable people	Addition (20%) cash compensation for any assets affected (e. g. boundary wall demolished; trees removed) Prioritised compensation with help to reconstruct new relocation houses.

7.5. Cut-Off Dates

The entitlement cut-off date refers to the time when the assessment of persons and their property in particular project areas is carried out, which is the time when the census or economic survey is initiated. The establishment of a cut-off date is required to prevent opportunistic invasions/rush migration into the area. Where there are apparently no identified owners or users of land or assets, the respective Administration will notify the community leaders and representatives to help to identify and locate the land users and owners. In the case of unallocated Customary land, the Customary Land Act provided for the Ministry of Lands to allocate the land for public utilities to the implementing partner in collaboration with Traditional Authorities. 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 PAPs will be informed through both formal notifications in writing and by verbal notification delivered in the presence of the community leaders or their representatives.

7.6. Asset Valuation

Valuation is the process of determining the value of land, or an asset that PAPs possess or use. Compensation for all land use and assets will be required for the following:

- Land;
- Residential buildings, structures and fixtures;
- Cultivated crops (both cash and food crops) and trees (timber and fruits); and
- Loss of businesses or employment.

In addition, resettlement and economic rehabilitation assistance will be provided to the PAPs, as outlined in the Entitlement Matrix. It is essential that if cash compensation is selected, then replacement values are used to establish actual compensation for all projects funded under MEPRP. A registered valuer will undertake the valuation exercise, using existing market price, to establish replacement cost. This will be done as part of the preparation of each investment specific RAP.

7.7. Valuation Process of Assets

7.7.1. Development of Standard Valuation Table

Due to the expected investments under MEPRP and the localized nature of the majority of project interventions, it is anticipated that a relatively large number of small-scale asset valuations will need to be carried out during the implementation of MEPRP.

7.7.2. Field Preparation of Asset Inventory

The first step will be to carry out an asset valuation survey as part of RAP preparation. The team will include the consultant contracted by the implementing agency to carry out the RAP and the registered land valuer and will include a representative of the PAPs. Each asset will be enumerated and inscribed in an inventory, and a valuation of the asset carried out using the approach described above. The values of each asset will then be recorded in a register, and before presenting the figures to the PAPs, the Ministry of Lands, Housing and Urban Development will validate the figures and after that show to the affected person for agreement. The register will be signed, and a copy given on the spot to the affected person. At this time, a copy of the grievance procedure will also be given to the affected person as stated in the grievance redress mechanism. The information collected, including census, will have been compiled in electronic and hard copy form, with a separate file for each affected household, including the type of compensation which will be an individual choice. MEPRP will consult with the affected persons to

determine the preferred mode of compensation. Records of these consultations will form part of the RAP reports that will be prepared by the consultant. Table 5 below describes the forms of compensation.

Table 7: Forms of Compensation

FORMS OF COMPENSATION	
Cash Payments	Compensation will be calculated in Malawi kwacha, based on the replacement cost. Rates will be adjusted for inflation.
Replacement of assets	Compensation may include reinstatement of houses, structures such as driveways, road sections, and other buildings.
Resettlement and Economic Rehabilitation Assistance	Assistance may include livelihood restoration measures, moving allowance, transportation, and labour

Cash compensation can lead to short term spending by poor households who are losing houses and consequently long-term impoverishment. Cash also has negative impacts for women as payments are generally paid to male households' heads. To mitigate this, MEPRP will make it a policy that affected households incorporate women as signatories into their accounts. To reduce inflationary pressure on the cost of goods and services, current market prices will be monitored within the period that compensation is being made to allow for adjustments in compensation values. These changes in values could be due to an economic shock that may cause increase in prices and values of assets. Where compensations are done six months after valuation of the assets, adjustment on the total values will be made to reflex market prices and values. The issue of security, especially for people who will be receiving cash compensation payments will be addressed by the local administration and using bank accounts or mobile money as modes of payment. The timing and venue for compensation will be decided by each implementing agency in charge of a specific investment in consultation with the PAPs and with the assistance of the local administration.

7.8. Valuation and Calculation of Compensation

7.8.1. Methods for valuing assets in Malawi

There are fundamental and basic appraisal methods which enable a valuer to arrive at a logical and supportable estimate of the value of property owned by PAPs. For any valuation model to have validity it will have to produce an accurate estimate of the market price. The method will, therefore, have to reflect the market culture and conditions at the time of valuation. The following method will be considered.

7.8.2. Investment Method

The investment method will treat the property like any other investment in the market, where the main factors influencing investment decisions are the security of principal, adequate yield, security of income, administrative costs and capital growth. The procedure is to capitalize on the rental income (net of expenses or outgoing) using a coefficient based on the prevailing market yield. Yield adjustments will

have to be made where income is terminable. Where ownership will accrue in future or the expected income stream is likely to change, the benefit is deferred at an appropriate rate, where adequate market data are available. Where sale and rental transactions are rare, and there is a scarcity of comparative data on rental and capitalization rates, the method will not be used.

7.8.3. Direct Comparison Method

The method will be used to value assets by comparing like with like. It is a very reliable method if the current market information is available on sale prices and rentals. It is usual to reduce sales or rent information to unit price for compensation purpose.

7.8.4. Replacement Cost Approach

Replacement Cost Approach is where the market sale and rental information is not available; the value can be arrived at by using the cost approach - that the costs of replacing assets are based on damages caused by project operations. The approach involves direct replacement of expropriated assets and covers an amount that is sufficient for asset replacement, moving expenses and other transaction costs. This is the method that will be preferred when compensating all MEPRP project affected persons.

7.9. Calculation of Compensation by Assets

The following methods of calculation will be adopted for the preparation of the aforementioned standardized asset valuation tables and the application of a specific case by case valuations in the case of projects that have significant impacts.

7.9.1. Compensation for Land in Urban Areas

The compensation will be based on replacement cost, which will be the market price plus the cost of buying a new plot of land and the fees and taxes involved.

7.9.2. Compensation for Agricultural Land

The MEPRP project will provide the first replacement of land for any affected land. If receiving land as compensation, the affected party will then be compensated for the labour required to replant the crops. In the case where there is no alternative land available, cash compensation at full replacement value will be provided. This will be valued based on the prevailing market value in the locality to purchase an equally productive plot of land in the same locality. Any associated costs of purchasing the land, i.e., taxes, and registration fees will be included in the compensation. Compensation will also be done for any improvement made on the land with the calculation made using current prevailing market rates for labour, equipment, and materials. In cases where land lost is only a small fraction of total land owned by the PAP, but renders the remaining land as unusable, the compensation provided will be calculated based on the total land affected (i.e., the actual land lost plus the remaining unusable land). In addition, the PAPs will be compensated for any permanent improvements made to the land (for instance water distribution and supply lines). This will be calculated based on the price of making the permanent improvement at current prevailing market rates for labour, equipment, and materials. Compensation for land is aimed at providing a farmer and landowners whose land is acquired and used for project purposes, with compensation for land, labour, and crop loss. The farmer's labour is one of the most significant investments he/she makes in producing a crop which is higher than all other inputs such as seed and fertilizer. As a result, compensation relating to land will cover the market price of labour invested as well as the market price of the crop lost.

7.9.3. Land Measurement

For purposes of measuring land under MEPRP, the unit of measurement would be that which is used and understood by the PAP and if a traditional unit of measure exists in the rural areas, that unit will 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 metres 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 the location of trees, stumps, etc. as immovable pegs. The most critical concern of this exercise is to ensure that the affected person is able to verify using his/her standards/units of measurement, the size of land that is being lost. This will ensure transparency in the system and will thus avoid subsequent accusations of wrong measurements or miscalculation of areas. A farmer should know 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 value as land lost.

7.9.4. Calculation of Crop Compensation Rate

The compensation of the crops will be paid at the market rate for the production lost. This rate incorporates the value of crops and the value of the labour invested in preparing. Market value is equivalent to an average of previous years' market value for the mature and harvested crop. The value of the labour invested in preparing agricultural land and ploughing will be compensated at the average wage in the community for the same period.

7.9.5. Crop Values Determination

The value of each staple crop affected will be taken as the highest market price (over three years) reached during the year. This will be validated from current market prices of crops as kept by Agriculture Development Division (ADD) office. The labour 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, ploughing, sowing, weeding twice, and harvesting the crop. The labour costs will be paid in Malawi kwacha at the prevailing market rates. For transparency reason, all land labour will be compensated for at the same rate. If the land is needed at the agriculturally critical date when a farmer or PAPs will not have enough time to prepare another land without assistance, support will be provided in the form of labour-intensive village hire, or perhaps mechanized clearing so that that replacement land will be ready by the sowing dates. The farmer will continue to receive his/her cash compensation to enable him/her to pay for sowing, weeding and harvesting.

7.9.6. Compensation for Buildings and Structures

Compensation will be paid by replacing structures such as houses, buildings, huts, farm, outbuildings, latrines and fences on alternative land provided. Cash compensation would be available as a preferred option for structures lost, that are not the main house or house in which someone is living. The current market prices for construction materials will be determined. The second option is the provision of cash compensation at full replacement value. Replacement values will be based on:

- Measurements of structures and detail of materials used;
- Average replacement costs of different types of household buildings;
- Structures based on a collection of information on the numbers and types of materials used to construct different types of structures (e.g., poles, bricks, rafters, bundles of straw, corrugated iron sheets, 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 labour required;
- Any associated taxes, registration fees.

7.9.7. Voluntary Land Donation (VLD)

For land donated voluntarily for MEPRP projects, written consent must be undertaken by the owner of the land and also consented by the family of the owner and witnessed by the Chief. A detailed procedure for VLD is provided in Annex 9. An agreement will then be prepared by the District Magistrate, signed

by the owner, and witnessed by the Chief. The project will have to ensure that (i) the potential donors have been appropriately informed and consulted about the project and the choices available to them, that potential donors are aware that refusal is an option, (ii) that the donated land is not more than 5% of the landowner's land and that the donation will not reduce the donors' current livelihood level, (iii) the donor is expected to benefit directly from the project, and (iv) no household relocation is involved.

7.9.8. Compensation for Community Assets

Community assets include community-owned assets such as water points, wells, marketplaces and community/ public facilities (e.g. schools, clinics police posts). Community assets will be identified through the census and enumerated. In the event that community assets are affected, in-kind and new facilities will be provided even if there are existing facilities at the new location, except if such assets are not needed in the new place. However, if community trees are affected, the community will be compensated through the provision of new seedlings equivalent to the value of lost trees. Some community assets such as burial grounds in the rare case may be affected. This site will be avoided, and the project will not remove/relocate graves or use land in graveyards.

7.9.9. Compensation for Sacred Sites

This RPF is conscious of the fact that the valuation of sacred places is a difficult undertaking because of the complexity of placing a monetary value on a cultural site. Additionally, most sacred sites belong not only to an individual but to a family, village, or community. Under MEPRP, the sacred sites and use of land will be avoided. Sacred sites will include but not be restricted only to; museums, altars, initiation centres, ritual sites, ancestral tombs, trees, stones, and cemeteries which are considered sacred by the project affected persons. It will also include other such sites or places/features that are accepted by local laws (including customary), practice, tradition and culture as sacred. However, if the impact on some cultural sites is unavoidable, utmost care will be taken to ensure that all related activities affecting such sites and compensation are culturally appropriate and acceptable to the involved community and that all the processes are done in a consultative manner and with full participation of the affected communities.

7.9.10. Compensation for Loss of Enterprises

Business structures in project areas will be replaced in an appropriate location as outlined above. In addition, compensation will be paid for the lost income, profits, and production during the transition period (time lag between losing the business and re-establishment). If it is not possible or preferable to provide replacement site for an affected business/enterprise, the full replacement cost to re-establish the business, as described above, will be provided.

7.9.11. Compensation for Vegetable Gardens and Beehives

Most vegetable garden, form part of the residential space of most homes - though miniature in size, they make a critical component of most family's food and nutritional supplement through the provision of vegetables. Until a replacement garden starts to bear, the family displaced (economically or physically), will have to purchase vegetables in the market for daily use. The replacement costs, therefore, will be calculated based on the average amount that an average household in the area spends on buying these items for one year per adult from the local market. Beehives are placed in various locations in the bush by individuals specializing in honey gathering. If such hives will be disturbed by the project activities or access to hives is denied, beekeepers will be free to move them, and hopefully the bees will adapt to the new locations. Beekeepers will 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.

7.9.12. Compensation for Horticultural, Floricultural and Fruit Trees

Papaya, Banana, Guava, spice crops, medicinal and aromatic crops will form a set of primary fruit trees that are likely to be found in the project's targeted area and are estimated to account for a significant amount of all fruit-bearing trees. They are primarily important as a source of subsistence food for families; cash produce that contributes to the export economy; petty market income in some areas, and shade.

For banana trees, they have a relatively much shorter productive life, normally, than mango trees. For species, banana trees will not bear fruit more than once a year. Therefore, compensation for banana trees will be based on the full market rates for bananas harvested in that year and for one additional year. The second-year payment is for the replacement cost of planting a new tree, looking after it and harvesting it which could all be done in one year. This method, in general, is used for trees/plants that have a relatively short life. Mango tree and other fruit-bearing trees with longer lifespan will be compensated on a combined replacement/market value. Mango trees used for commercial purposes will be compensated at market value based on historical production records. If households choose to resettle, they will be compensated for the labour invested in the trees they leave behind. For this RPF, the compensation rate will be based on the value of the mango and other fruits harvested in one season multiplied by the 30 years of the maturity of the tree. The compensation could also be in the form of providing a combination of new grafted and local trees to farmers, as well as cash payments to offset lost yearly income.

7.9.13. Other domestic fruit, shade trees,

As defined in this RPF, individuals will be compensated for wild trees which are located in their land. Wild productive trees belong to the community when they occur in the bush as opposed to fallow land. These trees will be compensated for under the umbrella of the community compensation.

7.9.14. Compensation for livelihoods that are not necessarily land based

For those who have small production and that production is a major part of their livelihoods, such as forest fruit and herbs collectors, fishermen, beehive keepers, livestock owners, tenants, those working on land, sand collectors, earning an income, which is affected by any of MEPRP sub project investment, the RPF proposes full livelihood restoration and support to such vulnerable groups affected by the project's activities

7.10. Preparing, Approving Resettlement and Compensation Plans

This chapter describes how a determination will be made (screening) on whether MEPRP subproject investments will lead to physical or economic displacements (figure 2). If through the screening process, it is determined that displacement will occur, then the section highlights the steps, process and methodologies for preparing RAPs. The RAPs for each investment will be prepared in accordance with this RPF

7.11. The Screening Process

Given that the types of investments and possible severity of impacts of subprojects under the MEPRP vary, each investment that is proposed to be included under MEPRP will be screened by the PIU and classified according to its potential social, economic and environmental impacts. The screening will be based on the sub-project brief, defined area of impact, primary engineering drawings, maps and if available satellite images of the project area showing homes, farms, workplaces, schools, health posts, places of worship and other individual and community assets. If screening determines that resettlement is likely, the next step will be to initiate resettlement planning, consultation and the preparation of a RAP. The steps to be undertaken for each individual Resettlement Action Plan (RAP) include; identification of Project Affected Persons (PAPs), a socioeconomic census and asset inventory of the area, and consultation. Each RAP when prepared will contain the analysis of alternative sites undertaken during the land screening process.

Once the decision is made on the location of a given subproject under MEPRP and screening done by the PIU indicates that the subproject will affect land, assets and/or livelihood, the PIU will make a written request to the Ministry of Lands, Housing and Urban Development of the intention of the acquisition of the identified area for the proposed MEPRP subproject land. The Ministry of Lands, Housing and Urban Development will inspect the land and grant approval for the land to be acquired for the

implementation of the subproject. With this approval, the Ministry shall then go ahead and make written notification of the intention to acquire the identified land for public purposes.

First, the RCC will begin by meeting with the affected community to inform them about the potential project in their area and its possible impacts on land and livelihoods. A RAP shall then be prepared by the qualified consultants contracted by the PIU for the identified MEPRP investment. The consultants will work closely with the technical design team, PIU Safeguards team, and relevant Lands Office.

- All affected individuals will be notified by the District Councils directly in the presence of their local leaders;
- All potential PAPs will be identified (through a scoping exercise) and informed about their options and rights pertaining to compensation for land and assets to be acquired by a given project;
- PAPs will be consulted about land acquisition and compensation and offered technical and financial options, including the most economically feasible alternatives;
- PAPs will receive reasonable compensation at full replacement cost for losses of assets and access attributable to the sub-project;
- PAPs will be enabled to restore and preferably improve their living standards compared to pre-project ones.

7.12. Preparation of A Project Specific RAP

As soon as investment/project is approved to be financed under the MEPRP, the implementing agency will initiate a consultative and participatory process for preparing the RAP as follows:

- A census survey will be completed to determine the scope and nature of resettlement impacts including the number of PAPs, the number and size of the assets, the economic activities, the other socio-economic data, and productive assets to be affected, among others.
- The socio-economic assessment will focus on the potentially affected communities, including some demographic data, description of the area, livelihoods, the local participation process, socio-cultural characteristics of the population. This together with the census will establish baseline information on livelihoods and income, landholding, etc. Aside from the census and socioeconomic survey, which are the basis for collecting data and information on the PAPs and their assets, the following guidelines will be used when the RAP is being developed. Consultation and participatory approaches. A participatory approach will be used to initiate the compensation process. Consultations will start during the planning stages when the technical designs are being developed, and at the land selection/screening stage. The process, therefore, seeks the involvement of PAPs throughout the census and socioeconomic study for identifying eligible PAPs and throughout the RAP preparation process.
- Notification. All eligible PAPs will be informed about the project and the RAP process. A cut-off date will be established as part of determining PAPs eligibility, which is the date the census or the socioeconomic survey is initiated. In special cases where there are no identifiable owners or users of the land or asset, the RAP team must notify the respective local authorities and leaders. A “triangulation” of information – affected persons; community leaders and representatives; and an independent agent (e.g., local organization or NGO; other government agency; land valuer) – may help to identify eligible PAPs. The RAP team will notify PAPs about the established cut-off date and its significance. They will be notified both in writing and by verbal notification delivered in the presence of all the relevant stakeholders.

- Documentation and verification of land and other assets. The Ministry of Lands, Housing and Urban Development, together with a contracted registered valuer, will arrange meetings with PAPs to discuss the compensation and valuation process. For each individual or household affected by a given investment/sub-project, the RAP preparation team will complete a Compensation form containing necessary personal information on the PAPs and their household members; their total land holdings; inventory of assets affected; and demographic and socio-economic information for monitoring of impacts. This information will be documented in a report and witnessed by an independent or locally acceptable body such as RCC or an NGO in the locality. The reports will be regularly updated and monitored.
- Compensation and valuation. All the types of compensation will be clearly explained to the individual and households involved by the consultant and a Ministry of Lands, Housing and Urban Development representative. This will refer especially to the basis for valuing the land and other assets, which will always be done in the presence of the PAPs or their representatives. Once such valuation is established, the Ministry will produce a Contract or Agreement that lists all property and assets that will be acquired by the project and the types of compensation selected. Table 4 provides a sample of entitlements that are eligible for compensation. All compensation should occur in the presence of the affected persons and the community local leaders. If cash compensation is the preferred choice of the PAPs, the means to provide such cash compensation will be decided by the PAPs, e.g., through a cheque, direct deposit to the PAPs' account or direct payment in cash to PAPs given that access to banking is sometimes a challenge in a remote environment.
- Budgeting. The costs associated with resettlement or relocation will be included in the RAP budgets for all sub-projects under MEPRP.
- Payments. A compensation schedule will be produced for all the PAPs, institutions and community. This will guide the payment of compensation packages to the PAPs by the Project Implementation Unit through the District Councils/Assemblies in each district that are mandated to make payments to the PAPs. The Electricity Supply Corporation of Malawi (ESCOM) through the of PIU will provide funding to the District Councils/Assemblies, which have the overall responsibility for compensation issues at the district level.
- Grievance Mechanism. Establishment of grievance mechanism will be one of the key requirements of the RAP processes for every MEPRP subproject. This is described fully in Chapter 9. One of the key roles of the proposed RCC will be grievance resolution and management. The PAPs will be informed about the dispute resolution process, specifically about how the disputes will be resolved in an impartial and timely manner and on how to register grievances or complaints, including specific concerns about compensation and relocation as well as disputes regarding livelihood restoration measures.
- Disclosure. Disclosure of all relevant information will be done to PAPs through project communication channels and the independent grievance mechanism

7.13. Approval Of Resettlement Action Plans

All RAPs developed for MEPRP project investments will be reviewed by the MEPRP/PIU, Department of Lands and the World Bank. For quality assurance, it is required that RAPs prepared for specific investments be submitted to the World Bank for review to ensure that they are produced in line with principles of this RPF and World Bank ESS 5 Land Acquisition, Restrictions on Land Use and Involuntary standard requirements. Gaps in quality shall be addressed through reviewers and the contracted consultants.

Once the individual RAPs are approved, they should be disclosed in the country and on the World Bank's external website. In addition, each RAP should be available in the localities and districts for which the investments are intended. The entitlement section of each RAP and the entitlement matrix should be translated into the local language and be distributed among the project affected communities.

8. INSTITUTIONAL FRAMEWORK FOR RAP PREPARATION AND IMPLEMENTATION

8.1. Implementation Arrangements

The Institutional responsibility for Resettlement Action Plans (RAPs) preparation and implementation, including delivery of entitlements lies with ESCOM (Figure 3).

8.1.1. Responsibilities and Roles of Key Entities

The lead implementing agencies are the Electricity Supply Corporation of Malawi (ESCOM) for component 2. ESCOM will establish a Project Implementation Unit (PIU) which is charged with the responsibility of delivering ESCOM's capital projects under MEPRP. ESCOM will recruit two qualified fulltime safeguards staff, one responsible for Environment and the other social safeguards issues. The PIU's Social Safeguards Specialists will work closely with District Councils/Assemblies, who in turn will work closely with Area Development Committee (ADC) in areas where MEPRP will have investments that will require RAPs (see figure 3). The PIU's Social Safeguards Specialist will be responsible for screening the project's activities for social impacts including activities that will result in land acquisition and involuntary resettlement; hiring of consultancies to prepare RAPs as needed; facilitating various consultation activities; disclosure of RAP in country; ensuring the interests of PAPs, particularly vulnerable groups, are taken into account and addressed within the RAPs; review of RAPs to ensure compliance with national and World Bank requirements; ensuring RAP clearance and approval; ensuring functioning GRMs and response towards resolving related issues; and supervising and monitoring the progress in resettlement preparation and implementation including delivery of entitlements and regular progress reporting. The preparation of a Safeguards capacity building plan and its implementation/execution is included under component 3 of the project.

8.2. Supporting Institutions

A number of Government and Non-Governmental institutions will be directly and indirectly involved in the implementation and monitoring of this RPF. These include Ministry of Lands, Housing and Urban Development who will mainly assist on land issues and monitoring of the RAP. Within the Ministry of Lands, Housing and Urban Development, Lands department will be responsible for the valuation of land before compensation is given. Where there will be non-fruit or fruit trees and forest to be compensated, the Forestry Department will be responsible for the valuations for the compensation of such trees and forest assets that will be affected by the project. The Table below presents a summary of the institutions that will be involved in the RAP and their roles.

Table 8: Institutions and their Roles in the implementation of the RAP

Institution	Role
Ministry of Lands, Housing and Urban Development	Policy guidance on land acquisition and compensation Monitoring the Implementation of the RAP Assessments of Land and Assets Review and Approval of RAP
Department of Forestry	Providing schedule to inform assessment of trees
Ministry of Agriculture and Water Development	Providing a schedule to inform crop assessment
District Councils	Heading the Grievance Mechanism Committee

Institution	Role
	Oversees the payment of Compensation to PAPs Monitoring implementation of RAPs
Traditional Leaders	Coordinates with the developer and District Council Helps in identifying the PAPs Identifies Alternative Land for PAPs Member of the Grievance redress committee
Project Implementation Unit	Preparation of RAP Coordination with all government institutions involved with the resettlement process Processes the payment of compensation Manages the resettlement process Monitors the implementation of RAP
NGOs	Monitoring the implementation of RAPs Members of the Grievance redress committee through representatives

9. IMPLEMENTATION SCHEDULE

9.1. Preparation of RAP

While it is not possible to prepare a detailed implementation schedule at the current time, because MEPRP investments have not been defined, the guiding principle is that no civil works will begin before compensations have been fully paid out. Each investment once identified and screened, if required, will prepare an individual implementation schedule as part of the RAP for that investment. Therefore, all RAPs will include an implementation schedule for each activity covering initial baseline and preparation, actual relocation, and post relocation economic and social activities. The plan will include a targeted date when the expected benefits for project affected persons would be effected. Arrangements for monitoring of the implementation of the resettlement and evaluating its impact will be developed during the preparation of individual RAPs implementation schedules. The principles for the preparation of monitoring and evaluation are discussed in Chapter 11 on Monitoring and Evaluation. Target dates for achievement of expected benefits to resettled persons and hosts will be set, and the various forms of assistance to the resettled persons will be disseminated to them. All the stakeholders will be requested to participate in the decision-making process and provide inputs in the area of their expertise in order to establish a coherent work plan or schedule.

The schedule for the implementation of activities related to specific RAPs will be prepared based on the principles of this RPF and must be agreed between the MEPRP PIU, RCCs and PAPs to give legitimacy to the whole process as outlined in the law. These will include the target dates for start and completion of civil works, the dates of the possession of land that PAPs are using, dates of the full compensation, dates of transfer of titles, if necessary, and dates of handover of land to the implementing agency. The consultation process will ensure that RAPs contain acceptable measures agreed upon among all stakeholders that link resettlement activities to civil works under each specific investment in compliance with this policy.

9.2. Timing of Compensations

Before any subproject investment is implemented, PAPs will need to be fully compensated in accordance with this RPF. The timing mechanism of these measures will ensure that no individual or affected household would be displaced (economically or physically) due to civil works activity before compensation is paid. In cases where PAPs will be relocated, resettlement sites, with adequate facilities, will be prepared and provided to the individual or homestead affected.

10. MECHANISMS FOR CONSULTATIONS AND PARTICIPATION IN PLANNING, IMPLEMENTATION AND MONITORING

Public consultations and participation are essential because they afford PAPs the opportunity to contribute to both the design and implementation of the project's activities and reduce the likelihood for conflicts between and among PAPs and implementing agencies. The way the land administration is undertaken in Malawi today is based on long-standing traditional and cultural practices that make public consultations with the rural communities, essential. In recognition of this, particular attention will be paid to public consultations with project-affected individuals/households/communities in resettlement and compensation. Public consultations will take place at the inception of the planning stages of RAP when the potential land areas are being considered. Records of these consultations will form part of the RAP reports that will be prepared by the PIU. The participation strategy will revolve around the provision of a full opportunity for involvement. Therefore, as a matter of strategy, public consultations will be an on-going activity taking place throughout the entire project cycle.

Public participation and consultations will 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 will take into account the low literacy levels prevalent in these rural communities in Malawi by allowing enough time for responses and feedback.

Notwithstanding, the best guarantors for public interest are the traditional and local leaders who are responsible members of their local communities and can also be part of the potentially displaced (economically or physically) individuals/households. Particular attention will be given to vulnerable groups such as the landless, and women to ensure that they are represented adequately in such arrangements.

10.1. Objectives of Consultations with PAPs

Specific objectives of the engagement process on RAP project will be as follows:

- To share fully RAP information about the social-economic and environmental impacts of the project with the PAPs;
- To obtain information about the needs and priorities of the PAPs, as well as information about their reactions to proposed policies and activities;
- To inform PAPs about various options for livelihood restoration;
- To obtain the cooperation and participation of PAPs and related communities in activities required to be undertaken for RAP planning and implementation;
- To discuss compensation rates and eligibility entitlement;
- To discuss choice of alternative location of farmland;
- To ensure transparency in all activities related to land acquisition, compensation and rehabilitation;
- To establish a clear, easily accessible and effective complaints and grievance procedure; and ix. To establish mechanisms for monitoring and evaluation and for implementing corrective actions.

10.2. Consultation Process with PAPs

Steps of information and consultation will be implemented:

Initial information: Basic information will be provided to potentially affected people on the MEPRP project. This step will take the form of public meetings.

External stakeholder consultation: Other key stakeholders such as Ministry of Energy, EAD, traditional authorities, local political leaders and District Council/Assembly officials have been consulted for their views, concerns and suggestions regarding RAP.

Consultation on draft RAP: Once the RAP is available in draft form, it should be discussed with project-affected persons, RCC Committee members and other relevant stakeholders whose comments shall be incorporated into final document.

Disclosure: The RAP will then be disclosed on ESCOM and relevant District Assembly notice boards and websites for comments.

10.3. Consultations on the RPF

During the development of this RPF, public consultations were held from May to October 2022 with different stakeholders from some MEPRP focus districts to discuss the contents of this RPF. In addition to consulting different institutions like ESCOM, the Malawi Government Ministries and Non-governmental Organization, local communities in Chiradzulu, Mulanje, Phalombe, Thyolo, Chikwawa and Nsanje were consulted. Communities that have had new electricity connections and had experience working with ESCOM, in addition to other new non-connected customers were consulted. These interviews provided many insights regarding the possible impacts of the project and possible issues that should be taken into consideration in the RPF. They also highlighted the institutions that will be key and instrumental in making the project sustainable and effective. Specific details of the consultations are captured in Annex 10. However, below is a summary of the main issues that were raised by the communities. The communities raised the main issues of the lack of feedback and procedures for grievances. The communities reported that when they have raised issues, e.g., encroachment of ESCOM into their land without permission and damage of their property, the procedure for the PAPs/communities to follow to launch their complaints is unclear. Where the complaints are launched successfully, ESCOM's feedback takes time, and communities end up spending considerable time and resources in following up on these issues with ESCOM.

10.4. Data Collecting Phase

During the preparation of MEPRP RAPs, preliminary public consultations and socio-economic surveys study will be undertaken. It will involve the active participation of all PAPs in the provision of preliminary data. PAPs will be important information providers, enabling accurate and effective data. Information about the proposed project will also be explained to PAPs in the local language that they understand. Besides, PAPs will be given a platform to ask questions about the project, identify the impact of the proposed MEPRP activities, suggest mitigation measures and alternatives to be considered in the technical design that limits impacts. The RAP preparation consultant will also provide a rationale for data collection, discuss data with PAPs, and give PAPs feedback on the collected data.

10.5. Disclosure of RAPs

Public disclosure of the MEPRP RAPs will be made to PAPs and other stakeholders for review and comments on the entitlement matrix and other issues in the implementation of the RAP. The purpose of the disclosure will be to receive comments and suggestions from PAPs and incorporate appropriate suggestions. The MEPRP RAPs will be disclosed in a form, manner and language comprehensible to PAPs and at a place accessible to the displaced population and other stakeholders for review and comments on entitlement measures. Except for the Entitlement Matrix, other sections of the RAP will be disclosed. MEPRP PIU at ESCOM will disclose and post any MEPRP RAP in its websites and receive comments. Comments and critiques made on any MEPRP RAP by PAPs and other stakeholders will be taken by MEPRP PIU at ESCOM for consideration. MEPRP PIU at ESCOM will also conduct a half-day workshop in the project area for the PAPs, stakeholders, representatives of civil societies, local leaders

with the objective of disclosing project specific RAP. The public disclosure of any RAP will be made in Chichewa. and English languages. This will be done through the MEPRP PIU at ESCOM's office; depositing / posting it in a range of publicly accessible places such as, schools, churches, District Council offices, and in local newspapers with wide circulation. This RAP also will be disclosed for input from civil societies, academics and other professionals.

10.6. Implementation Operation

During consultation phase before implementation, the PAPs will be informed about their rights and options, at which point they will air their views. Cash compensation amount and size of land offered for compensation will be presented to each eligible PAP for consideration and endorsement before cash payment, or land compensation can be effected.

10.7. Monitoring and Evaluation Phase

The PAPs' representatives will participate in the project completion workshops, to give their evaluation of the impacts of the project. They will also suggest corrective measures, which may be used to improve implementation of other MEPRP supported projects. After completion of all expropriation/compensation operations, the PAPs will be consulted in a household survey to be undertaken as a monitoring and evaluation exercise.

11. GRIEVANCES REDRESS MECHANISM

11.1. Grievance Redress Process

Grievance procedures are required to ensure that PAPs are able to lodge complaints or concerns, without cost, and with the assurance of a timely and satisfactory resolution of the issue. The procedures should also ensure that the entitlements are effectively transferred to the intended beneficiaries. PAPs will be informed of the intention to implement the grievance mechanism, and the procedures will be communicated at the time of the preparation of investments' specific RAPs. Under MEPRP, grievances may arise from members of communities who are dissatisfied with (i) the eligibility criteria; (ii) valuation of assets and compensation, or (iii) actual implementation of RAPs, among others. This chapter sets out the measures to be used to manage grievances. Currently, ESCOM does not have any set of procedures or protocols that are followed for GRM. For projects, the grievance mechanism differs depending on the activities. Each project comes with its redressal mechanism as such there is no written procedure. During operation of projects, the procedure has been to encourage the aggrieved party to complain in writing to senior Managers or to the CEO of ESCOM. MEPRP will have well set out procedures for grievance resolution that will be followed and documented. Figure 4 presents the schematic diagram of the steps that will be followed in the grievances redress procedure.

A grievance log will be established at the district level and copies of the records kept in the PIU to be used for monitoring of complaints. The grievance redress mechanisms will be designed with the objective of solving disputes at the earliest possible time which will be in the interest of all parties concerned. Communities will be advised on the GRM process through sensitisation meetings and encouraged to launch any grievances as soon as possible. These meetings will be conducted when instituting the GRM committees at village and local level. A designated committee in the community (at village level) will be responsible to receive complaints and start the process. Hence any member of the community affected by the project activities or contractors will be encouraged to launch the complaint with this committee. Details of the GRM procedures are outlines in the section below.

If a complaint pattern emerges, ESCOM through the PIU and District council will discuss possible remedial measures. The above institutions will be required to advise on the need for revisions of procedures. Once they agree on the necessary and appropriate changes, then a written description of the

changed process will be made. The PIU and the District Council in collaboration with local leaders will be responsible for communicating any changes to future potential PAPs when the consultation process with them begins.

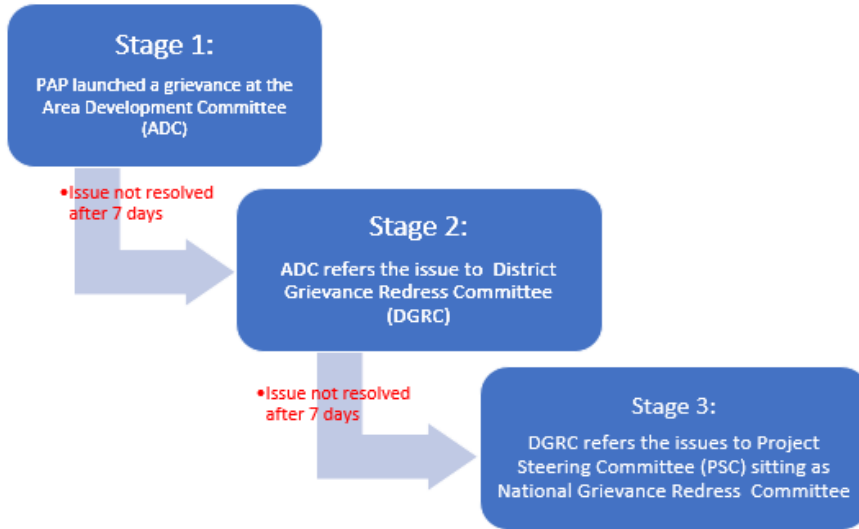


Figure 4: Schematic diagram of the grievance’s management procedure

11.2. Procedures for Grievance Management

The procedures for grievances management will be done from the village level as indicated in figure 4 above. The PAP will lodge any grievance linked to MEPRP to the Village Development Committee (VDC) as a starting point. The detailed procedure is as below:

Stage 1: The affected person will file his/ her grievance, relating to any issue associated with the resettlement process or compensation, in writing or verbally in to the ADC. The PAP will be directed to fill the grievance form (Annex 5) and where the PAP cannot write, a responsible committee member of the VDC will assist the PAP with filling in the grievance form. The grievance form should be signed and dated by the aggrieved person. A copy of this completed form should be submitted to the PIU through the District Council. If the issue is not resolved within seven (7) days or the PAP is dissatisfied with the proposed resolution, the ADC will refer the matter to the District Grievance Redress Committee (DGRC).

Stage 2: Upon receipt of the complaint from ADC, the DGRC will conduct its own investigations to strengthen evidence that will be used to resolve the issue. If the grievance relates to valuation of assets, a second or even a third valuation will be undertaken, at the approval of DGCR until it is accepted by both parties. These should be undertaken by separate independent valuers than the person who carried out the initial valuation. The more valuations that are required to achieve an agreement by both parties, the longer the process will take. If the matter is not resolved within seven days or the resolution is unsatisfactory to the PAPs, the ADC will refer the issue to the District Council.

Stage 3: If the issue is brought to the National Grievance Redress Committee (NGRC), who are also mandated to help resolve such matters, they will be given seven (7) days to find solutions for the issue. The NGRC will help to facilitate resolution of their complaint and ensure that the matter is addressed in the optimal way possible. If the issue involves compensations or related issues, the RCC will also be involved to help find solutions for the matter.

11.3. Access to Other Grievance Redress Systems

If the matter at the NGRC cannot be resolved or the resolution is unsatisfactory to the PAP, the PAP could explore any other means outside the above-mentioned procedure. The PAPs could lodge the matter in the formal judicial system or with the World Bank's Grievance Redress System or Independent Inspection Panel of the World Bank or any other alternative means available to them. Information on how to submit complaints to the Bank's Grievance Redress Service and the Bank Inspection Panel will be disclosed to the public during various project meetings with stakeholders and community sensitization meetings.

11.4. Grievance Log

Copies of all grievances at the ADC will be collected and given an individual reference number that will be used to track and record all actions on the matter. These grievances will be compiled in a log form at district level and the Safeguards staff from the PIU will collect all grievances at the district level for monitoring and following up. The log will contain a record of the person responsible for an individual complaint, the nature of the complaint, the name of the aggrieved, the nature of the proposed resolution and the acceptance, or otherwise, of the proposed solution by the aggrieved person and records dates for the following events as indicated in Table 8 below:

Table 9: Grievance log table at district level

Name of complainant	
Age (optional)	
Gender	
Village/Location/TA and District	
Date received:	
Received by:	
Location where complaint is received	
Issue type: Request or Concern or Grievance	
Summary of grievance	
Action taken or to be taken	
Responsible institution/person to take action	
Date response was sent to the complainant	
Status of grievance	
The date the complaint was closed out	

When the grievance is addressed and resolved, a form will be filled and filed to indicate at what stage this was resolved and what was the final resolution. This form will also be used to monitor the progress of the GRM.

11.5. Monitoring Complaints

The Social Safeguards Officer of the ESCOM PIU will be responsible for:

- Collecting monthly report detailing the number and status of complaints, type of complaints, levels of complaints, and actions to reduce complaints at district level from the Social Development officer.

- Resolving any outstanding issues that are the responsibility of the ESCOM PIU.
- Capacity building of all committees at ADC and DGRC on the GRM.
- Monitoring the functionality of the GRM systems.

12. FUNDING ARRANGEMENTS FOR RESETTLEMENT.

The actual cost of resettlement and compensation for each MEPRP investment will be determined during each socio-economic study for the preparation of the individual RAPs. ESCOM will finance all the resettlement compensation costs because they are the party that would be impacting livelihoods. After the completion and approval of the subproject RAPs, ESCOM will disburse the compensations through the District Councils welfare office that will be responsible for final paying the compensations to the PAPs. However, due previous experience and community concerns raised during consultations, the full list of PAPs and their corresponding compensations will be sent to the PIU who will closely monitor and ensure that all PAPs have received their money. Where possible, PAPs will be encouraged to open bank account to allow for electronic transfer of the compensation to the PAPs accounts or use mobile money. This will reduce abuse of the district official to poor PAPs when receiving compensations. At this stage, it is not possible to know the exact number of people who may be affected under the MEPRP project since the technical designs and details of all investments have not yet been finalized. It is therefore not possible to provide an estimated budget for the total cost of resettlement that may be associated with MEPRP implementation. However, 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 are available, detailed and accurate budgets for each RAP will be prepared using the template outlined below.

Table 10 Illustrative Budget Template for the RAP

Asset acquisition	Amount number	or	Total cost	estimated	Agency responsible
Land					
Structure					
Crops and economic trees					
Community infrastructure					
Land Acquisition and Preparation					
Land					
Structure					
Crops areas and others					
Community infrastructure					
Relocations					
Transfer of possessions					
Installation costs					
Economic Rehabilitation					
Livelihoods restoration					
Training					
Capital Investments					
Technical Assistance					
Monitoring					
Contingency					

13. ARRANGEMENTS FOR MONITORING AND EVALUATION

This chapter sets out requirements for the monitoring and evaluation of the implementation of the RAPs which will be prepared in accordance with this RPF.

13.1. Overview

The arrangements for monitoring will fit the overall monitoring plan of the entire MEPRP, which will be done by the ESCOM PIU. All RAPs will set major socio-economic goals by which to evaluate their success and will include: -

- affected individuals, households, and communities being able to maintain their pre-project standard of living, and even improve on it;
- the local communities remaining supportive of the project;
- the absence or prevalence of conflicts;
- project affected persons reporting satisfaction with the resettlement operation.

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

The objective of the monitoring will be to determine: -

- i. If affected people are satisfied with the actual resettlement process.
- ii. ii. If affected people have been paid in full, before implementation of any MEPRP subproject that is causing resettlement.
- iii. If affected individuals, households, and communities have been able to maintain their pre-project standard of living and even improve on it. The census and the socio-economic survey study which are the basis for the preparation of investment-specific RAPs under the MEPRP will be used as the baseline for the evaluation of the individual RAPs.

13.2. Indicators To Determine Status of Affected People

A number of indicators from the above studies will be used in order to determine the status of all affected people under MEPRP subprojects.

- Size of land being used compared to before,
- Standard of house compared to before,
- Status of income compared to before iv. Level of participation in project activities;
- Access to water, access to schools and health centres as it was before the project
- Status of vulnerable people compared to before
- Specific indicators may include the following, which would indicate a change:
- Access/ distance/ quality of agricultural plots viii. Quality of, and access to, water
- Number of people employed
- Number of 'vulnerable' people
- Number of grievances and time taken to resolve them. If not resolved, what were the next steps
- Status of income of the project affected persons
- The local communities remaining supportive of the project.
- The local communities reporting satisfaction with project resettlement

Most of the information for these indicators will be collected through survey, interviews and focus group discussions with the affected communities. The data for these indicators will be collected every six months

during the RAP implementation by the PIU. The pre-project census information will provide most, if not all of the required information to set a baseline against which performance can be tracked. In addition to the existing baseline data, the following steps will be taken to ensure the proper monitoring of the RAPs:

- I. Questionnaire data will be entered into a database for comparative analysis.
- II. Each individual will have a compensation dossier recording his or her initial situation, all subsequent project use of assets/improvements, and compensation agreed upon and received.
- III. RCC specifically the land's office and ESCOM will maintain a complete database on every individual impacted by the sub-projects' land use requirements.
- IV. Regular resettlement status reports submitted by the implementing agency will be reviewed.

13.3. Monitoring Of RPF/RAP Implementation

The ESCOM PIU will assist in compiling base information related to compensation and send them to ESCOM as part of regular monitoring. Some of the information which will be collected at the RCC level will include: -

- Length of time from project identification to the payment of compensation to PAPs;
- Timing of compensation in relation to the commencement of physical works;
- Amount of compensation paid to each PAP household;
- Number of people raising grievances in relation to each project investment;
- Number of unresolved grievances;
- Number of vulnerable people assisted;
- Number of livelihoods restored and types of the livelihood restoration.

The ESCOM PIU will review the statistics to determine whether the resettlement planning arrangements as set out in this RPF are being adhered to. Financial records will be maintained by ESCOM's PIU to permit calculation of the final cost of resettlement and compensation per individual or household, and they will be included in the monitoring report. The statistics will also be provided to the external independent consultant/agency that will be contracted on an annual basis to monitor the implementation of the RAPs.

ANNEX 1: SAMPLE RESETTLEMENT SCREENING FORM

Project name:

Project Location

(Include map/sketch): (e.g. Area, Ward, Location, and Village etc.).

Type of activity: (e.g. new construction, rehabilitation, periodic maintenance)

Estimated Cost:

(Malawian Kwacha)

Proposed Date of

Commencement of Work:

Technical Drawing/Specifications

Reviewed: (circle answer): Yes No

This report is to be kept short and concise.

Site Selection:

When considering the location of a project, rate the sensitivity of the proposed site in the following table according to the given criteria. Higher ratings do not necessarily mean that a site is unsuitable. They do indicate a real risk of causing undesirable adverse environmental and social effects, and that more substantial environmental and/or social planning may be required to adequately avoid, mitigate or manage potential effects.

Issues	Site Sensitivity			Rating
	Low High	Medium High	Low High	
Involuntary Resettlement	Low population density; dispersed population; legal tenure is welldefined.	Medium population density; mixed ownership and land tenure.	High population density; major towns and villages; low income families and/or illegal ownership of land;	

			communal properties.	
--	--	--	----------------------	--

Checklist questions:

Physical data:	Yes/No answers and bullet lists preferred except where descriptive detail is essential.
Site area in ha	
Extension of or changes to the existing alignment	
Any existing property to transfer to sub-project	
Any plans for new construction	

Refer to the project application for this information.

Land and resettlement:	Yes/No answers and bullet lists preferred except where descriptive detail is essential.
Will the project involve loss of land and other resources?	
Will the project result in temporary or permanent loss of crops, household infrastructures like shelter, granaries or latrines?	
What is the likelihood of land purchase for the subproject?	
How will the proponent go about the land purchase?	
What level or type of compensation is planned?	
Who will monitor actual payments?	

Refer to the Resettlement Policy Framework.

Actions:	
----------	--

List outstanding actions to be cleared before project appraisal.	
Approval/rejection	Yes/No answers and bullet lists preferred except where descriptive detail is essential.

Recommendations:

Requires a RAP to be submitted on date: _____

Does not require further studies

Reviewer: _____

Name: _____

Signature: _____

Date: _____

ANNEX 2: CENSUS AND LAND ASSET INVENTORY FORM

Socio-economic Household Datasheet of PAPs

Name of Interviewer		Signature
ID Code		
Name of Supervisor		(after verification of interview)
ID Code		

Cell Name		Number of Concessions in Village (GPS Coordinates)	
ID Code			

Date:

Day Month Year

Name of Head of Extended Family: _____

Number of Nuclear Families in Extended Residential Group (including household of the head of the extended family)	
--	--

Household Interview

Name and Surname	Relationship to Head of Family	Sex		Place of Birth	Age	Marital Status	Residence Tenure	Ethnic Group	Religion	Educational Level	Income Earner		Economic Activities	
		M	F								Yes	No	Primary	Secondary
1.														
2.														
3.														
4.														
5.														
6.														
7.														

Relation to Head of Family: 1 HoH; 2 Spouse of HoH ; 3 Child of HoH; 4 Spouse of child of HoH; 5 Grandchild of HoH; 6 Parent of HoH; 7 Other (specify); 0 No Answer.

Marital Status: 1 Married; 2 Widowed; 3 Divorced; 4 Unmarried; 0 No Answer.

Residential Status: 1 PRP (Permanent Resident); 2 RA (Resident absent); 3 Member of non-resident HH; 4 Visitor; 5 Other (specify) ; 0 No Answer.

Occupations: -

Principal Occupation: 1. Farmer; 2 Shepherd; 3 Household; 4 Merchant; 5 Religious leaders, teacher; 6 Artisan; 7 Transport; 8 Unemployed; 9 Other (specify); 0 No Answer Secondary Occupations.

Educational Level: 1 Illiterate; 2 Three years or less; 3 Primary School; 4 Secondary School; 5 Technical School; 6 Religious School; 0 No Answer

Religion: 1 Christian (specify denomination) ; 2 Muslim ; 3 Other (specify) ; 0 No Answer

Land asset inventory for Project Affected People

Village: _____

Date: _____

Survey no	Name of Head of Household	No. of Persons in household	Total land holding of Household (m2)	Land to be acquired (m2)	Land Use Type *	Loss of % total	Loss of assets			Loss of crops			Loss of other assets	Other losses			
							Structures Permanent (m2)	Structures temporary (m2)	Area of residential land lost (m2)	Fruit trees lost type and number	Agricultural land lost (m2)	Other (specify)		e.g. grave yards, wells, etc. (type and no.)	Residence (rented)	Business lost	Income loss

Cell: _____

* Land types are as follows (please fill in the types of land for Malawi)

1. _____ 3. 2. _____ 4. _____

Entitlements of Project Affected People

Location: _____

Date: _____

Village: _____

Survey no.	Name of Head of Household	Compensation for Land			Compensation for structures			Compensation for crops and Trees			Compensation for other assets and losses (e.g., graveyards, wells, businesses, etc)			Total (MKW)
		Quantity (m2)	Unit price (MKW) per m	Entitlement (MKW)	Quantity (m2)	Unit price (MKW) per m	Entitlement (MKW)	Quantity (m2)	Unit price (MKW) per m	Entitlement (MKW)	Quantity (m2)	Unit price (MKW) per m	Entitlement (MKW)	

ANNEX 3: COMMUNITY ASSETS AND INFRASTRUCTURE

Complete one form for each community asset

1. Village/town/city					
2. Location					
3. Camera and Photograph Number					
4. Type of structure or asset					
01	School	08	Well	15	Water Supply
02	Clinic	09	Public Latrine	16	Sewerage
03	Church, Mosque or Temple	10	Public Laundry	17	Garbage Site/Dump
04	Shrine	11	RAP Playground	18	Fish Pond
05	Town Hall	12	Cemetery	20	Other
06	Meeting Hall	13	Electric	If other (Please Specify)	
07	Well	14	Public Telephone		
4. Name of structure					
5. Formal owner of the structure					
01	District Assembly				
02	Community or Voluntary Organization				
03	Private Individual				
04	Other (please Specify)				
6. Name and Address of owner (Please state name and address of responsible chairman or secretary if the structure is owned by a community organization or by government)					
6. Plot Number					
7. Telephone Number					
8. Number of users of structure per month					

9. Plot Dimensions		M X		M
10. Plot Area				M2
11. Land value per m2		MKw		
12. Land Value (no.s 11x12 Above from				MKw
13. Estimate of building area				M2
14. Building materials				
a. Floor		b. Walls		c. Roof
1. Earthen		1. Earthen		1. Iron sheets
2. Cement-		2. Cement-plastered earthen walls		2. Grass thatched
3. Tiles		3. Straw or bamboo		3. Tiles
4. Other (Specify)		4. Unbaked brick		4. Asbestos sheets
5.		5. Baked Brick		5. Galvanized tin
6.		6. Cement block		6. Other (Specify)
7.		7. Galvanized tin		7.
8.		8. Tile		8.
9.		9. Other (Specify)		9.
15. Building Value per m2				M2
16. Building Value (no.s 14x16)				
Signature of the owner of the structure				
Print name (Block Capitals)				
Signature of Valuation Surveyor				
Print name (Block Capitals)				
Date				

ANNEX 4: SAMPLE GRIEVANCE REDRESS FORM

Grievance Form				
Grievance Number		Copies to forward to:		
Name of the Recorder		(Original)-Receiver Party		
District		(Copy)-Responsible Party		
Traditional Authority (TA)				
Village / location				
Date				
Submitting to:	First submission: RCC and TA Second submission: District Assembly Thirds submission: Magistrate court	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
INFORMATION ABOUT GRIEVANCE				
Define the Grievance:				
For second and third submission specify reasons for resubmission:				
INFORMATION ABOUT THE COMPLAINANT				Forms of Receive
Name-Surname		<input type="checkbox"/> Cell number		
Cell phone Number		<input type="checkbox"/> Community/		
Address		Information		
Village		Meetings		
Traditional Authority		<input type="checkbox"/> Mail		
Signature of Complainant		<input type="checkbox"/> Informal		
		<input type="checkbox"/> Other		
DETAILS OF GRIEVANCE				
1. Access to Land moreover, Resources	2. Damage to a) House b) Land c) Livestock	3. Damage to Infrastructure or Community Assets a) Road/Railway b) Bridge/ Passageways	4. Decrease or Loss of Livelihood a) Agriculture b) Animal husbandry	5. Traffic Accident a) Injury b) Damage to property

<p>Forest and trees Lands Pasturelands House Commercial site Other</p>	<p>Crops Trees Other (specify)</p>	<p>c)Power/Telephone Lines Water sources, canals moreover, water infrastructure for irrigation and animals Drinking water Other</p>	<p>Trees and forest Small-scale trade Other</p>	<p>c) Damage to livestock d) Other</p>
<p>6. Incidents Regarding Expropriation and Compensation (Specify)</p>	<p>7. Resettlement Process (Specify)</p>	<p>8. Employment and Recruitment (Specify)</p>	<p>9. Construction Camp and Community Relations Nuisance from dust Nuisance from noise Vibrations due to explosions Misconduct of the project personal/worker e) Complaint follow up f) Other</p>	<p>10. Other (Specify)</p>
<p>Write full details of the grievances and any other measures taken to address: Solution</p>				

ANNEX 6: DRAFT TORS FOR THE DEVELOPMENT OF RESETTLEMENT ACTION PLAN (RAP)

a) The scope and level of detail for the development of resettlement action plan will involve the following.

- Description of the investment/project under MEPRP, project area and area of influence: Information presented in this section will include description of the project area showing location, sitting of plants, structures, lands, affected dwellings etc; MEPRP objectives and strategy; the investment/project objectives; policy and legal framework; timeframe; geographical coverage; project strategic context and rationale.
- Potential Impacts: Description of investment/project components or activities which would trigger resettlement; the cultural, social, economic and environmental impacts envisioned; and the alternatives considered to avoid or minimize resettlement.

b) Community Participation: This sub-section includes: -

- Description of the consultation and participation of the displaced and host communities in design and implementation of resettlement activities including a summary of the views expressed and how these views were incorporated during the preparation of the resettlement plan.
- A review of the resettlement alternatives identified, and choices made by the displaced people, including choices related to forms of compensation and resettlement assistance, relocating as individual families or as part of pre-existing families and to retaining access to cultural property (e.g. cemeteries, places of worship, etc.)
- Description of procedures for redress of grievances by affected people throughout the planning and implementation period.
- Description of measures aimed at sensitizing and educating the affected and host communities on matters of resettlement.

c) Integration with host communities

- Arrangements for consultation with host communities and procedures for prompt payment to the host for land and other assets should be provided to the resettled persons.
- Arrangements for resolving conflicts which may arise between the resettled persons.
- Arrangements for resolving conflicts which may arise between the resettled persons and host communities should be put in place.
- Appropriate measures to augment public services such as education, water, health in host communities in order to avoid disparities between resettled persons and the host communities should be put in place.
- Plan for resettled persons should be integrated economically and socially into host communities so that adverse impacts to host communities are minimized.

d) Socio-economic Studies

These will include the following: -

- Population census of the project area including a description of production systems, household organization, baseline information on livelihoods and standards of living of the displaced population (and host communities)

- An inventory of assets of displaced households; the magnitude of the expected loss (total or partial for individual or group assets); and extent of physical and economic displacement;
- Information on disadvantaged/vulnerable groups or persons for whom special provisions may have to be made. Such groups and persons include those living below the poverty line, the landless, the elderly, women, children, indigenous people, ethnic minorities and displaced persons who are not protected through national land compensation legislation. Resettlement involving vulnerable/disadvantaged groups/persons should be preceded by a social preparation phase to build their capacity to deal with issues of resettlement;
- Provisions for updating information on the livelihood of displaced people and their standards of living at regular intervals;
- Description of land tenure systems including common property and non-title-based land ownership, or allocation recognized locally and related issues;
- Public infrastructure and social services that will be affected; and
- Social and cultural characteristics of displaced and host communities. Appropriate patterns of social organization should be promoted and the existing social and cultural institutions of resettled persons and their host should be retained, supported and used to the extent possible.

e) Eligibility

Definition of displaced persons and criteria for compensation and other resettlement assistance including relevant cut off dates. The assurance should be given that lack of legal title should not bar affected persons from being compensated.

(f) Valuation and Compensation for losses

The methodology to be employed for valuing losses in order to determine their replacement cost. This is a description of the levels of compensation under the local laws and supplementary measures aimed at determining replacement of cost for lost assets.

A description of the packages of compensation and other resettlement measures that will ensure that each category of eligible displaced persons get their fair compensation. In conformity with the World Bank Operational Policy (OP.4.12 of Dec 2001, updated February 2011), displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them to pre-displacement levels or to levels prevailing prior to the start of project implementation whichever is higher.

g) Identification of alternative sites, selection of resettlement site(s), site preparation and relocation

Institutional and technical arrangements for identifying and preparing relocation sites for which a combination of productive potential, location advantages and other factors, should be at least comparable to ancillary resources.

Procedures for physical relocation including timetable for site preparation and land title transfer and description of resettlements sites.

Measures to prevent the influx of ineligible person (encroachers and squatters) into the selected sites such as the identification and recording of affected people at the project identification stages.

Legal arrangements for regularizing tenure and transferring titles to resettled persons.

h) Shelter, infrastructure and social services

This sub-section provides details regarding plans to provide or finance housing, infrastructure (e.g. roads, water supply, etc.) and social services (schools, health services) and plans aimed at ensuring that services and any necessary site development to host.

- i) Environmental protection: An assessment of possible environmental impacts of the proposed resettlement and measures to mitigate and manage the impacts.

- j) Implementation Schedules

An implementation schedule covering all resettlement activities from project preparation through implementation to monitoring and evaluation. The schedule should indicate dates for achievement of expected benefits to resettled persons and hosts and dates for terminating the various forms of assistance.

- (o) Costs and Budget

The breakdown of cost estimates for all resettlement activities including allowances for inflation and other contingencies, timetable for expenditures, sources of funds and arrangements for timely disbursement of funds.

- k) Monitoring and evaluation

Under this sub-section, information regarding arrangements for monitoring of resettlement activities by the implementing agency is presented. When appropriate, independent monitors will supplement the role of the implementing agency to ensure objectivity and completeness of information. Performance indicators for measuring inputs, outputs and outcomes of resettlement activities and for evaluating impacts for a reasonable period of time after the resettlement activities have been completed are also presented. (Similar to the RPF)

- l) Commitment to follow RPF guidelines and requirement

A statement of assurance that the implementing agency will follow the guidelines and requirement of the RPF should be included in the RAP.

- m) Description of programs for improvement and restoration of livelihoods and standards of living of the affected people.

Programs aimed at improving and restoring the livelihoods and standards of living of the affected people in line with the Resettlement Policy framework

ANNEX 7: OUTLINE OF RESETTLEMENT ACTION PLAN

Introduction

It briefly describes the project.

Lists project components including associated facilities (if any).

Describes project components requiring land acquisition and resettlement; give overall estimates of land acquisition and resettlement.

Minimizing Resettlement

Describes efforts made to minimize displacement.

Describes the results of these efforts.

Describes mechanisms used to minimize displacement during implementation.

Census and Socio-economic Surveys

Provides the results of the census, assets inventories, natural resource assessments, and socioeconomic surveys.

Identifies all categories of impacts and people affected.

Summarizes consultations on the results of the various surveys with affected people.

Describes need for updates to census, assets inventories, resource assessments, and socioeconomic surveys, if necessary, as part of RAP monitoring and evaluation.

Legal Framework

Describes all relevant local laws and customs that apply to resettlement.

Identifies gaps between local laws and World Bank Group policies and describe project specific mechanisms to address conflicts.

Describes entitlement policies for each category of impact and specifies that resettlement implementation will be based on specific provisions of agreed RAP.

Describes method of valuation used for affected structures, land, trees, and other assets.

Prepares entitlement matrix.

Resettlement Sites

Describes the specific process of involving affected populations in identifying potential housing sites, assessing advantages and disadvantages, and selecting sites.

Describes the feasibility studies conducted to determine the suitability of the proposed sites, including natural resource assessments (soils and land use capability, vegetation and livestock carrying capacity, water resource surveys) and environmental and social impact assessments of the sites.

Demonstrates that the land quality and area are adequate for allocation to all of the people eligible for allocation of agricultural land.

Provides data on land quality and capability, productive potential, and quantity.

Give calculations relating to site requirements and availability.

Describes mechanisms for: 1) procuring, 2) developing and 3) allotting resettlement sites, including the awarding of title or use rights to allotted lands.

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Provides detailed description of the arrangements for site development for agriculture, including funding of development costs.

Have the host communities been consulted about the RAP? Have they participated in the identification of likely impacts on their communities, appropriate mitigation measures, and preparation of the RAP?

Do the host communities have a share of the resettlement benefits?

Income Restoration

Describes if there are compensation entitlements sufficient to restore income streams for each category of impact?

Describes additional economic rehabilitation measures are necessary?

Briefly spells out the restoration strategies for each category of impact and describes their institutional, financial, and technical aspects.

Describes the process of consultation with affected populations and their participation in finalizing strategies for income restoration.

Explains if income restoration requires change in livelihoods, development of alternative farmlands or some other activities that require a substantial amount of training, time for preparation, and implementation?

Describes how the risks of impoverishment are to be addressed?

Describes the main institutional and other risks for the smooth implementation of the resettlement programs?

Describes the process for monitoring the effectiveness of the income restoration measures.

Describes any social or community development programs currently operating in or around the project area.

If programs exist, do they meet the development priorities of their target communities? Are there opportunities for the project proponent to support new program or expand existing programs to meet the development priorities of communities in the project area?

Institutional Arrangements

Describes the institution(s) responsible for delivery of each item/activity in the entitlement policy

Describes the Implementation of income restoration programmes; and coordination of the activities associated with and described in the resettlement action plan.

States how coordination issues will be addressed in cases where resettlement is spread over a number of jurisdictions or where resettlement will be implemented in stages over a long period of time.

Identifies the agency that will coordinate all implementing agencies. Does it have the necessary mandate and resources?

Describes the external (non-project) institutions involved in the process of income restoration (land development, land allocation, credit, and training) and the mechanisms to ensure adequate performance of these institutions.

Discusses institutional capacity for and commitment to resettlement.

Describes mechanisms for ensuring independent monitoring, evaluation, and financial audit of the RAP and for ensuring that corrective measures are carried out in a timely manner.

Implementation Schedule

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Lists the chronological steps in implementation of the RAP, including identification of agencies responsible for each activity and with a brief explanation of each activity.

Prepares a month-by-month implementation schedule of activities to be undertaken as part of resettlement implementation.

Describes the linkage between resettlement implementation and initiation of civil works for each of the project components.

Participation and Consultation

Describes the various stakeholders.

Describes the process of promoting consultation/participation of affected populations and stakeholders in resettlement preparation and planning.

Describes the process of involving affected populations and other stakeholders in implementation and monitoring.

Describes the plan for disseminating RAP information to affected populations and stakeholders, including information about compensation for lost assets, eligibility for compensation, resettlement assistance, and grievance redress.

Grievance Redress

Describes the step-by-step process for registering and addressing grievances and provide specific details regarding a cost-free process for registering complaints, response time, and communication methods.

Describes the mechanism for appeal.

Describes the provisions for approaching civil courts if other options fail.

Monitoring and Evaluation

Describes the internal/performance monitoring process.

Defines key monitoring indicators derived from baseline survey. Provides a list of monitoring indicators that will be used for internal monitoring.

Describes institutional (including financial) arrangements.

Describes frequency of reporting and content for internal monitoring.

Describes process for integrating feedback from internal monitoring into implementation.

Defines methodology for external monitoring.

Defines key indicators for external monitoring.

Describes frequency of reporting and content for external monitoring.

Describes process for integrating feedback from external monitoring into implementation.

Describes arrangements for final external evaluation.

Costs and Budgets

Provides a clear statement of financial responsibility and authority.

Lists the sources of funds for resettlement and describe the flow of funds.

Ensures that the budget for resettlement is sufficient and included in the overall project budget.

Identifies resettlement costs, if any, to be funded by the government and the mechanisms that will be established to ensure coordination of disbursements with the RAP and the project schedule.

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Prepares an estimated budget, by cost and by item, for all resettlement costs including planning and implementation, management and administration, monitoring and evaluation, and contingencies.

Describes the specific mechanisms to adjust cost estimates and compensation payments for inflation and currency fluctuations.

Describes the provisions to account for physical and price contingencies.

Describes the financial arrangements for external monitoring and evaluation including the process for awarding and maintenance of contracts for the entire duration of resettlement.

Annexes

Copies of census and survey instruments, interview formats, and any other research tools.

Information on all public consultation including announcements and schedules of public meetings,

Meeting minutes and lists of attendees.

ANNEX 8: PROTOCOL FOR VOLUNTARY LAND DONATION (VLD) FOR THE MEPRP

Voluntary land donation (VLD) will be allowed for installing or replacing new poles. MEPRP will follow the Protocols for VLD. Proposals on VLD will not be submitted for approval where they would significantly harm incomes or living standards of individual owners or users. Furthermore, VLD will need to be submitted the World Bank to ensure that the processes align with the principles stipulated in ESS 5. ESS 5 does not apply in regards to Voluntary land Donation unless the voluntary land transactions may result in the displacement of persons, other than the seller, who occupy, use or claim rights to the land in question.

During project implementation, MEPRP will consult regional and district multi stakeholders committee to oversee the process and ensure that voluntary land donations process is followed and implemented. The process will include the following protocols:

Official information and initial assessment.

If potential beneficiaries approach the MEPRP with the offer to donate land for project activities, MEPRP will determine the appropriateness of VLD in the circumstances of the project. For the installation and replacement of new electricity poles and drop down transformers; MEPRP will inform the village head and villagers (in case of a village) or ward councillors and location leader (in urban and peri-urban areas) or landowners through an official notification on where additional poles will be installed. Record and document the reasons why the donation of land is appropriate for the project. EDL will take into consideration the following details for such documentation:

- What the land will be used for;
- How much land the project will require on both a permanent and temporary basis;
- How much of the land will be donated;
- What alternatives to donation exist (e.g., right of use, right of way);
- The terms of the donation;
- The identities of the parties who intend to donate;
- The beneficiary of the donation; and
- Any details that are relevant to why donation may be appropriate.

Verification of voluntary donations.

The following conditions will be confirmed by the Committee including the village chief or area leaders.

- Confirmation that affected people agree to donate land or asset, based on a face to face meeting without the presence of MEPRP.
- No one would lose more than 5% of the total productive assets.
- The total land holding of the affected person should be 200m² or more for agricultural land or 100m² for residential plots.
- No physical relocation is necessary.
- The PAP directly benefits from the Project

Initial Village Consultation.

Under the village head leadership, a consultation process will be launched to invite different interest parties, including landowners to discuss and ratify the appropriateness of the voluntary basis of land

donation. The donors of land will be requested to have proper consultations with all relatives including children to avoid future disputes on the donated land.

Transferring and formalizing the land.

MEPRP process for land donation includes very clear procedures that explain the process that should be followed to transfer the land and appropriate ways to formalize the respective transfer. The process includes consideration of the legal and administrative requirements based on Malawi's legal framework and the requirements of ESS5. The process will describe a clear and transparent decision-making process.

Verification process (surveys) to identify land ownership and use.

MEPRP will carry out specific surveys to understand the type of land rights that exist in the project area, and to identify any particular issues relating to land ownership and use. Preliminary findings indicated (for the size of the land that will be donated about 30X30 cm for each pole) that the land is under private land ownership. More land may be donated for drop down transformers. These will be 5X5 meters or more. Moreover, more specific surveys must be conducted on each parcel of land proposed for donation to identify:

The owner or owners of the land;

- The users of the land, or any parties that occupy the land (either physically or through ownership of an asset or conduct of livelihood or business activities on the land);
- Any competing claims of ownership or use;
- Structures and assets on the land;

Any encumbrances on the land.

It is essential to (i) identify the right that is being transferred (an ownership right, a use right, a right of way); and (ii) check whether the transferee has the right s/he claims to have. In many circumstances where careful due diligence has not been carried out, significant conflicts have arisen at a later stage when another party claims that they have the same or a competing right. In some circumstances – but not all – the transferee will have documentary evidence of such right. In cases of customary land where no official documentation is not available, village chiefs and Traditional authorities will have to endorse a notification of the donation as a separate document before the final form below is filled. Where no such evidence exists, the due diligence can establish rights by speaking with local community officials and neighbors.

Public consultations and disclosure. The decision to donate must be taken on the basis of a full understanding of the project and the consequences of agreeing to donate the land. Accordingly, the parties that will be affected by the donation (the owners and users of the land) must be provided with accurate and accessible information regarding what the land will be used for, for how long, and the impact the donation will have on them and their families. It is important that prior written notification indicating the location and amount of land that is sought to be provided and that its intended use for the project is disclosed. Where the intention is to deprive the parties affected by the donation of the land permanently, or for a significant length of time, this must be made clear. It should be noted that in many communities the concept of alienation of land is uncommon and difficult to understand, and care needs to be taken to ensure that the implications of this are fully understood. It is also important to decide who else should be consulted about the proposed donation; for example, spouses and older children.

There should be a clear agreement as to which party will pay the costs associated with the donated land. This could include measurement costs, documentation and notarial fees, transfer taxes, registration fees. It should also include the costs of re-measuring/re-titling the transferee's remaining land and any new documentation relating to it.

Establishing informed consent.

MEPRP in coordination with the local committee will verify the informed consent or power of choice by the people who would donate land or asset. In particular, the following will be verified and documented in the voluntary donation report:

What the land is going to be used for, by whom and for how long;

That they will be deprived of the ownership or right to use the land, and what this means;

That they have a right to refuse to donate the land;

Whether there are alternatives to using this land;

What they will need to do to donate the land (e.g., execute documents, get spousal consents, pay taxes);

The effect of the donation on their family, and what they can do if they (or their family or heirs) want the land back.

All conditions provided in the para two above.

The right to refuse must be a legitimate right, unconditional, and the potential transferee must be capable of exercising it in the local community and political context. For this reason, it is important to be sure that the decision to donate is undertaken without coercion, manipulation, or any form of pressure on the part of public or traditional authorities. For collective or communal land, the donation must be based upon the informed consent of all individuals using or occupying the land.

Proper documentation.

During the VLD process for new poles and drop down transformers, it is important to distinguish between: (a) the agreement to donate the land, and (b) the document that carries out and evidences the legal transfer of the land. While it is important to have evidence of an intention and agreement to donate the land, it is equally important to ensure, where required and appropriate, that the land is legally transferred. While the process relating to the legal transfer of the land is frequently complicated and timeconsuming, it must be addressed. [In specific circumstances, for example, where the land is being transferred to the community, it may not be necessary to transfer the land legally. However, experience indicates that lack of formal transfer can create significant uncertainty in the future, which impacts on the sustainability of the infrastructure and services, and can have negative effects on community relations.] (see form 1 VLD, for reference)

MEPRP should:

Identify the appropriate documentation, including the agreement to make the transfer and any legal documentation that may be required;

Ensure that the agreement:

Refers to the consultation has taken place; o Sets out the terms of the transfer;

Confirms that the decision to transfer was freely made, and was not subject to coercion, manipulation, or any form of pressure;

Attaches an accurate map of the land being transferred (boundaries, coordinates);

Sets out who will bear the costs of the transfer (e.g., notarial fees, taxes, title issues) and documenting the residual land rights;

Ensure that all necessary parties sign the documents, including obtaining consent from spouses and children over a certain age;

Ensure that the transfer and title is registered or recorded; and

Ensure that the land remaining after the donated land is excised and properly titled, registered or recorded.

It is also important to maintain a record of the process that has been followed. Such documents could include the following:

The notification indicating the location and amount of land that is sought and its intended use for the project, with a record of when and where this was made public;

Records of the consultations that were held and what was discussed;

A copy of the due diligence that was conducted;

Copies of each of the formal statements of donation, establishing informed consent as described above, and signed by each owner or user involved;

Copies of all documents, registrations or records evidencing the legal transfer of the land;

A map, showing each parcel of land.

The project implementing agency should maintain a record with documentation for each parcel of land donated. Such documentation must be available for World Bank review, and for review in relation to any grievances that may arise.

Grievance redress arrangements.

The MEPRP will clearly provide the land donor with information regarding the project grievance redress mechanism, in the event of any complaints arising from the land donation. Land donors should also be informed of their right to seek redress under

national laws

FORM for Voluntary Land Donation

Region:	
District:	
Traditional Authority (TA)	
Township:	
Village:	
Project activity requiring land:	
Sub-project ID:	

Name of land owner:	ID Number:	Beneficiary of the project: Y/N
Sex:	Age:	Occupation:
Address:		

Description of land that will be taken for the project:	Area affected:	Total landholding area:	The ratio of land affected to total land held:	Map code, if available:
Description of annual crops grown on the land now and project impact:				
	Details	Number/ average yield		
- Crops previous grown on the land				
- Trees that will be destroyed				
- Fruit trees				
- Trees used for other economic or household purposes				
- Mature forest trees				
- Other				
Describe any other assets that will be lost or must be moved to implement the project:				
Value of donated assets:				

By signing or providing thumb-print on this form, the land user or owner agrees to contribute assets to the project. The contribution is voluntary. If the land user or owner does not want to contribute his/ her assets to the project, he or she should refuse to sign or provide a thumbprint and ask for compensation instead. (both husband and wife)

Date:

.....

District Commissioner for
Land

representative's signature

Date:

.....

Affected person(s) signature

