

**Republic of Kenya**

**MINISTRY OF AGRICULTURE AND  
IRRIGATION**

**STATE DEPARTMENT OF LIVESTOCK**

**RESETTLEMENT POLICY FRAMEWORK**

**EASTERN AND CENTRAL AFRICA  
AGRICULTURE TRANSFORMATION  
PROJECT**

**APRIL 2018**

## **ABBREVIATIONS AND ACRONYMS**

|        |   |
|--------|---|
| AEZ    | Agro-ecological Zone  |
| AIDS   | Acquired immune deficiency syndrome                           |
| ARAP   | Abbreviated Resettlement Action Plan                          |
| ARP    | Abbreviated Resettlement Plan                                 |
| ASAL   | Arid and Semi-Arid Lands                                      |
| ASAP   | As Soon As Possible   |
| BP     | Bank Policy   |
| CAP    | Community Action Plan   |
| CBO    | Community Based Organization                                  |
| CC     | Compensation Committee  |
| CCU    | Climate Change Unit   |
| CCU    | County Coordinating Unit                                      |
| CDD    | Community Driven Development                                  |
| CDDC   | Community Driven Development Committees                       |
| CDDO   | Community Driven Development Organization                     |
| CDP    | County Development Plan                                       |
| CEC    | County Executive Committee member                             |
| CEO    | Chief Executive Officer                                       |
| CIDP   | County Integrated Development Plans                           |
| CIG    | Common Interest Group   |
| CL     | Coastal Lowlands  |
| CoGs   | Council of Governors  |
| CPC    | County Project Coordinator                                    |
| CPSC   | County Project Steering Committee                             |
| CS     | County Secretary  |
| CSA    | Climate Smart Agriculture                                     |
| CSLA   | Community Savings and Loan Associations                       |
| EAAPP  | Eastern Africa Agricultural Productivity Project              |
| ECAATP | Eastern and Central Africa Agriculture Transformation Project |
| EMPs   | Environmental Management Plans                                |
| EPS    | Economic Planning Secretary                                   |
| ESMF   | Environmental and Social Management Framework                 |
| ESMP   | Environmental and Social Management Plan                      |
| FAO    | Food Agricultural Organization                                |
| GA     | Gender Analysis   |
| GCRC   | Gross Current Replacement Cost                                |
| GDP    | Gross Domestic Product  |
| GFSI   | Global Food Security Index                                    |
| GHG    | Green House Gases   |
| GIS    | Global Information System                                     |
| GoK    | Government of Kenya   |

|        |  |
|--------|--|
| GRC    | Grievance Redress Committee                              |
| GRM    | Grievance Redress Mechanism                              |
| HH     | Household  |
| HIV    | Human immune deficiency virus                            |
| IA     | Implementing Agency                                      |
| IA     | Involuntary Resettlement Associate                       |
| ICT    | Information Communication Technology                     |
| ID     | Identification number                                    |
| IDA    | International Development Agency                         |
| IP     | Indigenous Peoples                                       |
| IPPF   | Indigenous Peoples Planning Framework                    |
| ITWG   | Inter-Governmental Working Group                         |
| IWUA   | Irrigation Water User Association                        |
| KALRO  | Kenya Agriculture and Livestock Research Organization    |
| KENAFF | Kenya Agricultural Federation of Farmers                 |
| KEPHIS | Kenya Plant Inspectorate Service                         |
| KWS    | Kenya Wildlife Service                                   |
| LH     | Lower Highland   |
| LM     | Lower Midland  |
| LSK    | Law Society of Kenya                                     |
| M&E    | Monitoring and Evaluation                                |
| MCA    | Member of County Assembly                                |
| MEP    | Monitoring Evaluation Plan                               |
| MET    | Monitoring Evaluation Team                               |
| MIS    | Management Information System                            |
| MoALF  | Ministry of Agriculture Livestock and Fisheries          |
| MoDP   | Ministry of Devolution & Planning                        |
| MoU    | Memorandum of Understanding                              |
| NARIGP | National Agricultural and Rural Inclusive Growth Project |
| NEDI   | Northeastern Development Initiative                      |
| NEMA   | National Environment Management Authority                |
| NGO    | Non-Governmental Organization                            |
| NPC    | National Project Coordinator                             |
| NPCU   | National Project Coordinating Unit                       |
| NPSC   | National Project Steering Committee                      |
| NRM    | Natural Resource Management                              |
| NT     | The National Treasury                                    |
| NTAC   | National Technical Advisory Committee                    |
| O&M    | Operations & Maintenance                                 |
| OM     | Operational Manual                                       |
| OP     | Operational Policy                                       |
| PAP    | Project Affected Persons                                 |
| PCU    | Project Coordinating Unit                                |
| PDO    | Project Development Objective                            |

|           |   |
|-----------|---|
| PICD      | Participatory Integrated Community Development                          |
| PIM       | Project Implementation Manual   |
| PO        | Producer Organizations  |
| PS        | Principal Secretary   |
| RAP       | Resettlement Action Plan  |
| RCA       | Replacement Cost Approach   |
| RPF       | Resettlement Policy Framework   |
| SACCOs    | Savings and Credit Cooperative Organizations                            |
| SDA       | State Department of Agriculture   |
| SDG       | Sustainable Development Goal  |
| SDP       | State Department of Planning  |
| SLM       | Sustainable Land Management   |
| SP        | Service Provider  |
| STAK      | Seed Trade Association of Kenya   |
| TIMPS     | Technologies, Innovations Management and Practices                      |
| ToR       | Terms of Reference  |
| ToTs      | Training of Trainers  |
| UM        | Upper Midland   |
| VC        | Value Chain   |
| VDL       | Voluntarily Donated Land  |
| VMG       | Vulnerable and Marginalized Groups                                      |
| WB        | World Bank  |
| WDP       | Ward Development Plan   |
| WKCDD FMP | Western Kenya Community Driven Development and Flood Mitigation Project |
| WRUA      | Water Resource User Association   |

## GLOSSARY

**Definition of terms used in the report.** Unless the context dictates otherwise, the following terms shall have the following meanings:

1. **Sub projects** means any activity which is directly being implemented by project beneficiaries as a result of undergoing inclusion through a participatory process and funded by the World Bank under ECAATP
2. **Census** means a field survey carried out to identify and determine the number of Project Affected Persons (PAP), their assets, and potential impacts; in accordance with the procedures, satisfactory to the relevant government authorities, and the World Bank Safeguard Policies. The meaning of the word shall also embrace the criteria for eligibility for compensation, resettlement and other measures, emanating from consultations with affected communities and the Local Leaders.
3. **Compensation** means the payment in kind, cash or other assets given in exchange for the taking of land, or loss of other assets, income/profits including fixed assets thereon, in part or whole.
4. **Cut-off date** is the date of commencement of the census of PAPs within the project area boundaries. This is the date on and beyond which any person whose land is occupied for project use, will not be eligible for compensation.
5. **Project Affected Persons** (PAPs) means 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 or not the said Project affected persons physically relocates. These people may have their: (i) standard of living adversely affected, whether or not the Project Affected Person must move to another location; (ii) right, title, interest in any house, land (including premises, agricultural and grazing land) or any other fixed or movable asset acquired or possessed, temporarily or permanently, adversely affected; (iii) access to productive assets adversely affected, temporarily or permanently; or (iv) business, occupation, work or place of residence or habitat adversely affected.
6. **Involuntary Displacement** means the involuntary taking of land resulting in direct or indirect economic and social impacts caused by:
  - a. Loss of benefits from use of such land;
  - b. Relocation or loss of shelter;
  - c. Loss of assets or access to assets; or
  - d. Loss of income sources or means of livelihood, whether or not the project affected person has moved to another location.

7. **Involuntary Land Acquisition** is the taking of land by government or other government agencies for compensation, for the purposes of a public project against the will of the landowner. The landowner may be left with the right to negotiate the amount of compensation proposed. This includes land or assets for which the owner enjoys uncontested customary rights.
8. **Land** refers to agricultural and/or non-agricultural land, natural resources embedded in and any structures thereon whether temporary or permanent and which may be required for the Sub-project.
9. **Land acquisition** means the taking of or alienation of land, buildings or other assets thereon for purposes of the Sub-project.
10. **Rehabilitation Assistance** means the provision of development assistance in addition to compensation such as land preparation, credit facilities, training, or job opportunities, needed to enable project affected persons to improve their living standards, income earning capacity and production levels; or at least maintain them at pre-project levels.
11. **Replacement cost** means replacement of assets with an amount sufficient to cover full replacement cost of lost assets and related transaction costs.
12. **Replacement cost for agricultural land** means the pre-project or pre-displacement, whichever is higher, value of land of equal productive potential or use located in the vicinity of the affected land, plus the costs of: a) preparing the land to levels similar to those of the affected land; b) any registration, transfer taxes and other associated fees;
13. **Replacement cost for houses and other structures** means the prevailing cost of replacing affected structures of the quality similar to or better than that of the affected structures, in an area; and such costs shall include:
- a. Building materials;
  - b. Transporting building materials to the construction site;
  - c. Any labour and contractors' fees; and
  - d. Any registration costs.
14. **Resettlement Assistance** means the measures to ensure that project affected persons who may require to be physically relocated are provided with assistance such as moving allowances, residential housing or rentals whichever is feasible and as required, for ease of resettlement during relocation.

15. **Resettlement Action Plan (RAP)** is a resettlement instrument (document) to be prepared when development locations requiring resettlement are identified, *i.e.* where land acquisition leads to physical displacement of persons more than 200, and/or loss of shelter, and /or loss of livelihoods and/or loss, denial or restriction of access to economic resources. A RAP is prepared by the party impacting on the people and their livelihoods. A RAP contains specific requirements for resettling and compensating the affected parties before implementation of the project activities causing adverse impacts.

16. **Abbreviated Resettlement Action Plan (ARAP)** is a resettlement instrument to be prepared when development locations requiring resettlement are identified, *i.e.* where land acquisition leads to physical displacement of persons less than 200, and/or loss of shelter, and /or loss of livelihoods and/or loss, denial or restriction of access to economic resources.

17. **Resettlement Policy Framework (RPF)** this is a framework prepared to guide resettlement action and in particular the preparation of resettlement Action Plans during Project implementation. The RPF will be publicly disclosed in impacted areas to set out the resettlement and compensation policy, organizational arrangements and design criteria to be applied to meet the needs of the people who may be affected by the project implementation. Resettlement Action Plans will be prepared consistent with the provisions of this RPF.

18. **Vulnerable Groups** includes: widows, the elderly, the disabled, the sick, marginalized groups, low income households and youth; incapacitated households – those with no one fit to work, child-headed households, street children and other people or households characterised by low nutrition levels, low or no education, lack of employment or incomes; ethnic minority and/or gender bias (GoK, 2011).

19. **Land expropriation**—Process whereby a public authority, usually in return for compensation, requires a person, household, or community to relinquish rights to land that it occupies or otherwise uses.

20. **Project-affected household**—All members of a household, whether related or not, operating as a single economic unit, who are affected by a project.

21. **Stakeholders**—Any and all individuals, groups, organizations, and institutions interested in and potentially affected by a project or having the ability to influence a project.

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## EXECUTIVE SUMMARY

### Introduction

1) ECAATP is a regional project advanced from the Eastern Africa Agricultural Productivity Project (EAAPP) - which was implemented in four countries Kenya, Uganda, Tanzania and Ethiopia. ECAAT Project (EAAPP II) has been expanded to include East and Central Africa (ECA) Countries - Kenya, Uganda, Tanzania, Ethiopia and additional countries including Cameroon, Rwanda, Burundi, Democratic Republic of Congo and Republic of Congo.

2) ECAAT Project aims at promoting transformation and development of priority commodity value chains – dairy, cassava, rice, wheat, indigenous chicken and beans. The goal of ECAAT is aligned to the focus of the East and Central Africa countries and AU-NEPAD, which places emphasis on accelerated agricultural growth and transformation.

3) The Project Development Objective of ECAATP is to enhance regional collaboration to improve productivity, resilience, and competitiveness of selected agricultural commodity value chains and increase smallholder farmer access to the regional market for food commodities and products focus on structural transformation for growth and poverty reduction through competitiveness, resilience to shocks, and macro stability through: (a) boosting agriculture productivity to improve the sectors competitiveness; (b) skills development, including technical skills and higher education, to generate competent skills that meet the needs of the private and public sectors; (c) building competitiveness of smallholder farmers to access formal regional markets for food; (d) nutrition sensitive agriculture to address malnutrition and contribute to long-term human capital development; and (e) climate smart agriculture practices to build resilience in the food system. In this context, the project will seek regional solutions to: (i) generate highly productive technologies and improve farmers access to the technologies, innovations, and management practices; (ii) adapting to the threat of climate change, through a regional approach to development of resilient technologies (seeds and breeds) and management practices that improve water use efficiency; (iii) improve smallholder farmers access to regional value chains and removing barriers to movement of agricultural inputs and produce; (iv) leverage human capital and skills that may not be available in each country to support regional agenda for transformation of agriculture; (v) develop skills for the food system to meet the needs of public and private sectors; and (vi) promote innovative approaches in the business of agriculture and create sustainable regional collaboration for agriculture transformation.

4) **The project has 5 components namely:** Component 1 - Regional Commodity Programs; Component 2: Enabling Policies and Agricultural Markets; Component 3: Agriculture Education, Skills Development, and Service Delivery; Component 4 - Contingent Emergency Response and Component 5 - Project Coordination and Management

- 5) **Project Beneficiaries** - The primary beneficiaries of the project will be smallholder farmers, including women and youth and Vulnerable and Marginalized Groups (VMGs<sup>1</sup>) and other stakeholders along dairy, wheat, rice, cassava, indigenous poultry beans and oil crops (being integrated in the dairy Value Chain) value chains. The project will target organized common interest groups (CIGs) and federated into Producer and Marketing Organizations (PMOs) along the value chains (VC), and in selected county governments. It is envisaged that ECAAT will be implemented in the 21 counties that were covered under EAAPP and additional ones that will be identified through stakeholder consultations.
- 6) The proposed ECAAT project will help Kenya meet the rising demand for food; and attain the Sustainable Development Goals (SDGs) of ending poverty (SDG1) and hunger (SDG2) and combating climate change and its impacts (SDG13). To achieve the said SDGs Kenya requires enhanced regional collaboration to improve productivity, resilience, and competitiveness of selected agricultural commodity value chains and increase smallholder farmer access to the regional market for food commodities and products
- 7) Project Area: ECAATP is expected to cover 21 counties in Kenya. Many of the counties were also covered by the previous project EAAPP. Based on the agreed selection criteria the following 21 counties will participate in the project, while focusing on the specific regional commodity VCs (VCs): (i) Dairy (Murang'a, Nyeri, Nyandarua, Meru, Elgeyo Marakwet, Uasin Gishu, Kakamega, Vihiga, Migori, Nyamira, Garissa and Taita Taveta); (ii) Indigenous Poultry (Busia, Kakamega, West Pokot, Kitui, Taita Taveta and Kilifi); (iii) Beans (Kitui, Busia, Narok, Nyeri and Machakos); (iv) Wheat (Narok, Nyeri, Nakuru and Meru); (v) Rice (Kisumu, Homabay, Meru and Busia); and (vii) Cassava (Busia, Kilifi and Migori).

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<sup>1</sup> These are communities who meet the national requirements as outlined the CoK 2010 Article 56 and who also meet the requirements and definition as set out in the World Bank OP/BP 4.10.

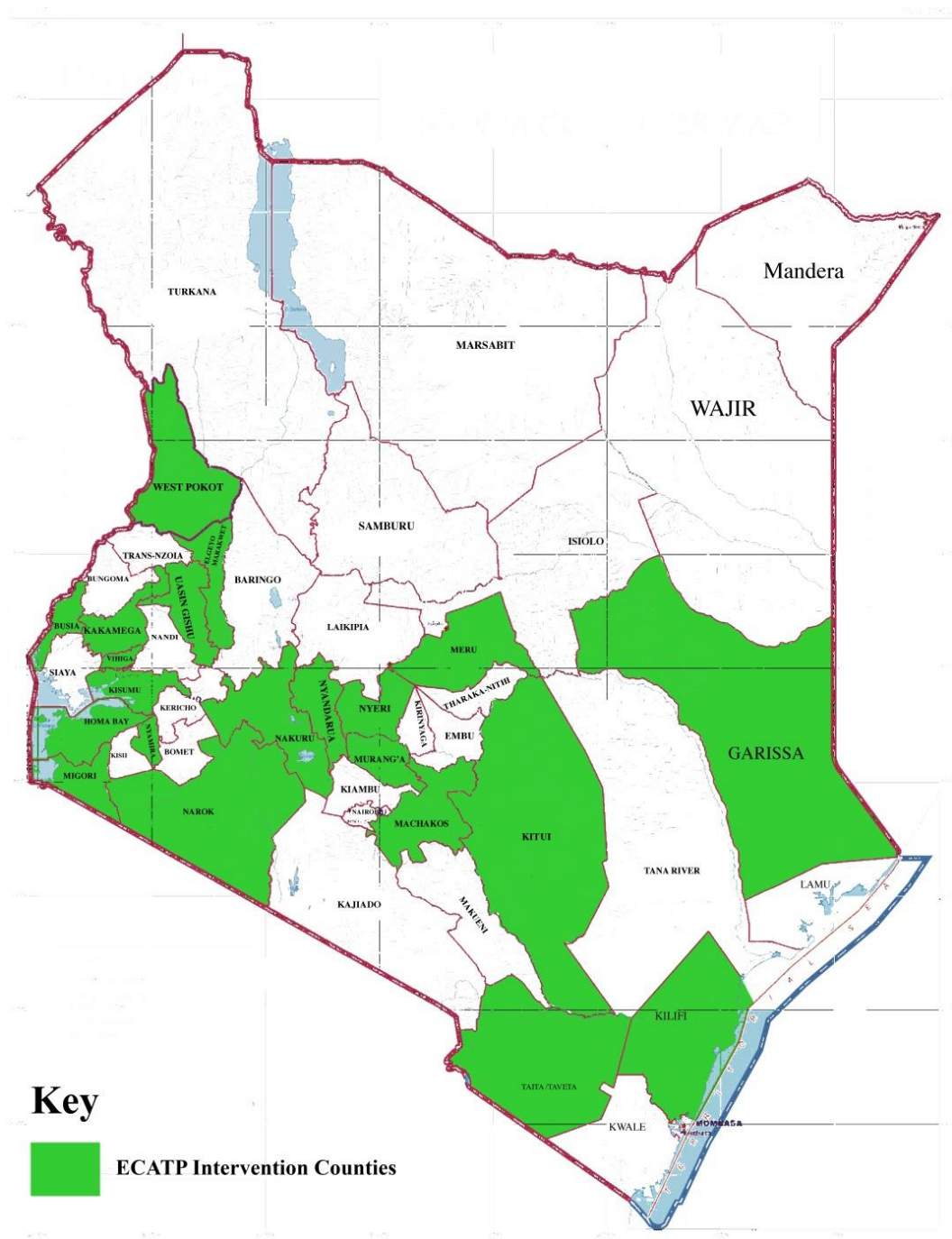


Figure 1: Eastern and Central Africa agriculture transformation project intervention counties

8) In the project area, ECAATP will promote sustainable landscape management with coordinated interventions at spatial scales (communities) that attempt to optimize the interactions among a range of land cover types, institutions, and agro-pastoral and pastoral activities. This sustainable landscape management will help: (i) optimize the management of different CSA interventions depending on natural resource (agriculture, livestock, agro forestry); (ii) take into account the external environment (devolved governance structure, policies, strategic plans, regulations, markets, among others) that might alter the relationship between the stakeholders; and (iii) encourage inclusive stakeholder consultations (common interest groups, vulnerable and marginalized groups, producer organizations, savings and credit societies, service providers, input suppliers, civil society, NGOs, CBOs, and government agencies, among others).

9) Given the array of development TIMPs envisaged in the proposed ECAAT project the Involuntary Resettlement Policy (OP/BP 4.12) is triggered here as a precautionary measure. This policy is triggered if the Bank Financed Project is likely to cause loss of land or other assets resulting in: (i) relocation or loss of shelter; (ii) loss of assets or access to assets (resulting in adverse impacts upon livelihoods); and (iii) loss of income sources or means of livelihood, whether or not the affected people must move to another location or not. When Involuntary Resettlement Policy (OP/BP 4.12) is triggered a Resettlement Policy Framework (RPF) or Resettlement Action Plan (RAP) is prepared as a condition for appraisal of the subproject is done by the borrower and / or an Abbreviated Resettlement Action Plan (ARAP) is prepared if less than 200 persons are affected or there is no physical displacement and less than 10% of their productive assets are lost.

10) In the case of the ECAATP, impacts are not known at the time of appraisal, and so, the borrower has prepared a Resettlement Policy Framework (RPF) to guide in mitigation measures. Subsequently, detailed RAPs will be formulated where applicable as proposed during implementation. Most of the investments will be institutional based; activities will be on land owned by the various institutions and therefore, land take will not be applicable in this case.

11) The development of a Resettlement Policy Framework (RPF) is a way to comply with the World Bank safeguard policy on Involuntary Resettlement Policy (OP/BP 4.12) triggered by projects that could entail physical displacement through acquisition of land for project activities; economic displacement or restricted access to natural resources and assets that lead to loss of income sources or means of livelihood under the involuntary resettlement. The RPF will provide project stakeholders with procedures to address the risks that may arise from implementation of sub projects leading to economic or physical resettlement of populations. It is expected to provide guidelines on how the project will avoid, minimize, manage or mitigate and even compensate all project related displacement risks.

12) Principles, Objectives and Processes: ECAATP does not envisage a resettlement but Involuntary Resettlement Policy (OP/BP 4.12) is triggered as a precautionary measure. The



purpose of the RPF for ECAATP will be to: (i) avoid or minimize involuntary resettlement where feasible, exploring all viable alternative micro project designs, (ii) assist displaced persons (if any) in restoring their former living standards, income and profit capacities, and production levels to near normal, (iii) encourage community participation in planning and implementing resettlement (where applicable), providing procedures to assist the affected persons regardless of the legality of land tenure as a result of implementing the various micro sub-projects.

13) The RPF is therefore, prepared to guide the selection and implementation of sub projects that will require precautionary measures related to involuntary resettlement. The World Bank's safeguard policy on Involuntary Resettlement (OP/BP 4.12) is to be complied with where involuntary resettlement, impacts on livelihoods, acquisition of land or restrictions to access to natural resources and proceeds.

14) This framework will target certain activities that may negatively impact on the livelihoods of the target beneficiaries thus reducing the average household yields. Examples of such activities include sustainable land husbandry management, infrastructure development and land acquisition for public utilities (community and/or county investments under components 1 and 2.

15) ECAATP does not envisage any physical displacement of people (including the vulnerable and marginalized communities who live in the forests and water towers). The project's Environmental and Social Management Framework (ESMF) clearly specifies that the project will not finance any micro project or subproject that is in the natural forests or that requires conversion of natural forests or changes the management and protection of natural forests/habitats or promotes utilization of natural forests or plantations.

16) The Bank Involuntary Resettlement Policy (OP/BP.4.12) requires that RPF report be disclosed as a separate and stand-alone report by the Government of Kenya and the World Bank. The disclosure of the document should be in both project visible locations (in-country) where it can be accessed easily by general public (county/sub county headquarters, chiefs' and Ward Administrators' offices, churches and other public places) in a language easily understood by the locals; and at the World Bank external website.

17) Potential Project Impacts. All activities to be undertaken will be on-farm and institutional based. No activities are planned or envisaged in gazetted forests and/or restricted parks. The potential social impacts are captured in the table 5. It should be noted that minimal resettlement is anticipated under this project and is only likely to occur for sub-projects linked to building local community and county infrastructure and assets. The kinds of sub-project activities to be undertaken are anticipated to have minimal adverse social risks and can be sited in such a way as to avoid the physical relocation of people. All ECAAT sub projects envisaged in this project are categorized as B projects. Given the challenges involved in managing environmental and social issues related to Category A projects, it is required that community-based projects avoid any type of activities that could lead to a Category A rating.

In line with the World Bank on Involuntary Resettlement Policy (OP/BP 4.12), the ECAATP will therefore minimize either physical displacement or economic displacement through a number and structured step which are detailed in the main text of the framework.

18) Resettlement Impacts - This RPF considers project affected people as those who stand to lose, as a consequence of the project implementation. In this case because most of the investment would take place in collaborating institutions; the following may be the PAPs to be encountered:

**Table 1: Description of Project Affected Persons (PAPs) and Compensation**

| Description of PAPs  | Form of Compensation   |
|--|--|
| PAPs who lose structures (landlord/ladies)                         | Value of structure plus transaction cost   |
| PAPs who lose businesses (tenants – residential and/or commercial) | Value of business plus stream of income  |
| PAPs losing structures and businesses (owner occupier)             | Value of structure plus transaction cost; Value of business plus stream of income        |
| PAPs who lose land only  | Market value of land   |
| PAPs who lose land and structures                                  | Land value plus value of structure plus transaction costs                                |
| Squatters  | Value of structure plus disturbance allowance  |
| Loss of trees  | Value of tree crop as assessed by the right department                                   |
| Mobile traders affected  | Value of the stream of income  |
| Vulnerable PAPs  | In addition to the specific loss; include either transportation or special consideration |

The expectations are that people are squatting institutions land (KALRO, KAGRC and KEPHIS among others) under residential or commercial occupation; and therefore, they are all eligible under OP/BP 4.12.

19) A Resettlement Action Plan (RAP) will be done where more than 200<sup>2</sup> individuals are displaced. An Abbreviated Resettlement Plan (ARP) will be formulated where less than 200<sup>1</sup> individuals are displaced. A Resettlement Action Plan (RAP) will be done where more than 200 individuals are displaced. An Abbreviated Resettlement Plan (ARP) will be formulated where less than 200 individuals are displaced. In some instances, Abbreviated Resettlement Action Plans (ARAPs) are required where sub projects affect more than 200 people, and ‘impacts are considered "minor" if the affected people are not physically displaced and less than 10 percent of their productive assets are lost’.

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<sup>2</sup>The actual parameters will be determined as per case specific

20) **Mitigation Measures** - Detailed social assessment studies will be carried out within the communities as and when required. The framework for the compensation/ resettlement will then be applied incorporating specific elements of interest. Vulnerable persons among the project affected persons (PAP) will be identified and special assistance offered during the compensation implementation process with some well-defined criteria.

21) **Eligibility Criteria, Entitlements and Valuation of Affected Assets** - The purpose of the valuation exercise is to assess the loss to the affected persons as part of the Assessment of Resettlement Issues under the project. The basis of this valuation is derived from the World Bank's Involuntary Resettlement Policy (OP/BP 4.12); the Resettlement Policy Framework developed for ECAATP; and The Constitution of Kenya 2010.

22) Land acquisition for Sub-projects may result in negative impacts to different categories of PAPs. Until the exact Sub-project locations are determined it is not possible to estimate the likely number of people who may be affected, because the technical details of the Sub-projects have not yet been developed. However, the likely displacement (economical or physical) persons can be categorized into these 3 groups/ Vulnerable households include:

a) **Affected Individual:** Individual who risk losing assets, investments, land, property and/or access to natural and/or economical resources as a result of a ECAATP Sub-project. This could be a person, who farms on steep slopes or who gather fire wood in gazetted forests.

b) **Affected Household:** A household is affected if one or more of its members are affected by any ECAATP Sub-project.

c) **Vulnerable Households:** Vulnerable households may have different land needs from most households or needs unrelated to the amount of land available to them.

23) **Land Acquisition and Valuation of land and other assets** - Land acquisition in Kenya, is broadly defined in the Constitution of Kenya, while the detailed procedures are explained elsewhere. Section 75 for example outlines expropriation on private land, stating it is allowed if the development and utilization of the property will promote public benefit among other things. The necessity for expropriation is justified by hardship caused to any persons, and the law that stipulates prompt payment of full compensation makes the provision justifiable.

I. **Structures** - The Replacement Cost Approach (RCA) will be adopted for the valuation of the structures. The RCA is based on the assumption that cost and value are related.

- II. **Livelihood** - Losses of income and profits for businesses will be estimated from net daily/monthly profit of the business verified by an assessment of visible stocks and activities. In addition to the compensation, disturbance allowances of 10% of total compensation will be considered (where applicable).
- III. **Economic Plants/Livestock/Aquaculture** - The enumeration approach will be adopted for the crops and livestock affected by the sub project. The enumeration Approach involves taking census of the affected crops and livestock including fish and applying flat realistic rate approved by the Land Valuation Team.

24) **Institutional/Departments Responsibilities:** ECAATP will involve a two-tiered institutional arrangement (national and county). At the first-tier, national level, the National Treasury (NT) will represent the Government of the Republic of Kenya (“the Borrower”) and the MoA&I will be the main implementing agency. Within the MoA&I, the project will be anchored in the State Department of Livestock (SDL). At National Level, the project will be coordinated by an NPCU and implemented through agencies with national mandate. The second tier will be the county level, with the county governments as the executing agencies of the project through a county implementation unit that will work closely with the NPCU/National agencies and the farmer/pastoralist project beneficiaries. The two-tier institutional arrangement aims to: (a) lessen the approval layers for faster decision-making and consequently efficient project implementation; and (b) utilize mostly the constitutionally mandated governance structures at the national and county levels, to the extent possible.

- a) **National level:** The overall project oversight and policy guidance will be provided by the National/Project Steering Committee (NPSC). The National Project Steering will be composed of Permanent Secretaries of all sector related ministries and agencies; namely (PS-Livestock, PS-Agriculture, PS-National Treasury, PS-EAC Integration, PS-Vocational Training, PS-Trade, PS-Cooperatives, DG-KALRO, COG, CEO-KENAFF, CEO-KEPSA, JKUAT, Vision 2030 Secretariat Representative, CFO, Supply Chain). The NPSC will provide coherence and policy guidance and direction to the reform process
- b) **The National Technical Committee:** Technical Committees to ensure that proposed reforms follow a common and coherent overall framework in line with stakeholder analysis and views. This committee will be composed of; the Agriculture Secretary, Director of Livestock Production, Director of Veterinary Services, Representatives of KALRO, TVETA, Trade, Cooperatives, KEPHIS, KAGRC, KDB, KEPSA, STAK, KIRDI, Kenya Dairy Processors, Producer Associations, JKUAT, KENAFF, ILRI and Chair Agriculture CECs Caucus

25) **Training and Awareness Creation Budget for RPF Implementation** - The budgetary provision will be made for sensitization and training of target beneficiaries, key Technical team members and ToTs responsible for implementing the RPF and logistical support. The budget for the preparation of RAPs/ARAPs will be derived from the specific

social assessment studies and mitigation/livelihood restoration measures to be developed. It will cover resettlement activities including compensation cost for affected assets. The cost will be derived from expenditures relating to:

- The preparation of the resettlement/compensation plan,
- Relocation and transfer,
- Income, profits and means of livelihood restoration plan, and
- Administrative costs

All these costs (if any) will be supported by the Government of Kenya.

26) **Participatory Monitoring and Evaluation Plan** - To ensure that the implementation of the resettlement is carried out in accordance with the relevant requirements of this resettlement policy framework, the actions will be monitored and evaluated internally by a Monitoring and Evaluation Team (MET) to be constituted by the ECAATP Coordination Office of the Ministry of Agriculture and Irrigation (MoA&I) - State Department of Livestock. The Monitoring and Evaluation Team (MET) will be expected to develop and implement a Monitoring and Evaluation Plan (MEP). The main indicators that the MEP will measure include:

- Number of impacts on affected individuals, households, and communities;
- Amount of compensation done and to how many PAPs
- Percent improvement of communities affected by the Sub project; and
- Number of disputes or conflicts received, settled and referred elsewhere.

The monitoring unit will submit periodic (quarterly) reports to the ECAATP and copied to the MoA&I- State Department of Livestock. The report will at least cover status of compensation disbursement, nature of complaints, redress actions and follow-ups.

27) **Stakeholder Consultation, participation and Disclosure of RPF** - The National Project Coordinating Unit conducted stakeholder consultations on 6<sup>th</sup> March, 2018 at KALRO headquarters. Stakeholders consulted included project Implementing agencies, relevant county government officials, smallholder farmer representatives, pastoral communities and vulnerable and marginalized groups' representatives. There were three representatives of indigenous people drawn from Garissa, Kilifi and Elgeyo Marakwet. There was representation of women and youths in the workshop. Comments from the workshop were incorporated under the public consultative and disclosure chapters of the RPF (Annex 9).

28) As provided under WB Involuntary Resettlement Policy (OP/BP 4.12), information and consultation on the ECAATP Resettlement Policy Framework were organized as follows: Circulation of the draft RPF for comments to all relevant institutions including MoA&I, Ministry of Water, National Environment Management Authority (NEMA), Kenya National Agricultural Federation of Farmers (KENAFF), State Department of Cooperatives and Enterprise Development; National Land Commission; County Land Valuation Officers;

Meteorological Department; Ministry of Environment, Natural Resources and Water; Climate Change Unit (CCU) and Workshop Participants who must include representatives of the VMGs .

29) **Public Disclosure** - Having incorporated all comments by stakeholders in the final RPF (Annexes 9, 10, 11), the document will be submitted to the World Bank for review, clearance and approval. Subsequently the borrower will disclose the framework on main local dailies and a project/e-government website and share both local media cuttings and the web-links with the World Bank who will subsequently upload the framework at the WB World Bank external website prior to appraisal. This will further be disclosed at community level in strategic places such as churches, local market places, chiefs' and ward administrators' offices among others.

## 1.0 INTRODUCTION

### 1.1. Background

30) Agriculture is a major driver of the Kenyan economy and the dominant source of employment for roughly half of the Kenyan people. In 2013, the sector contributed almost 27 percent to the national GDP<sup>3</sup>. The sector generates most of the country's food requirements. It also generates nearly two-thirds (65 percent) of merchandise exports and roughly 60 percent of foreign exchange earnings. About 91 percent of these exports in raw or semi-processed form, the country foregoes significant income by not adding value to its produce. In addition, climate variability is already having an impact on agriculture and food security in Kenya, as a result of increased prevalence of extreme events (especially droughts) and increased unpredictability of weather patterns. For example, severe droughts that occurred in 1991/92, 1995/96, 1998/2000, 2004/2005, and 2008-11, resulted in precipitous crop losses, livestock deaths, spikes in food prices, increased food insecurity and malnutrition for the poor, and led to rural population displacement (temporary migrations). Two noteworthy extreme climate events are the 1998 El Nino and the 2009 drought, which resulted in a combined total cost of US\$2.8 billion (about 7 percent of the 2010 GDP equivalent). Frequent droughts also make Kenya significantly food insecure. In 2015, it ranked 83rd of 109 countries, on the Global Food Security Index (GFSI). Kenya is also highly vulnerable to climate change risks. The Center for Global Development ranks Kenya 13th out of 233 countries globally for "direct risks" due to "extreme weather" and 71st out of 233 for "overall vulnerability" to climate change, even when adjusted for coping ability (GoK, 2010).

31) Climate change exacerbates the vulnerability of Kenya's agricultural sector as projections show increases in mean annual temperature of 1°C to 1.5°C by 2030. Consequently, changes in rainfall distribution and more frequent extreme events, such as prolonged drought and floods are predicted to result in more water shortages, especially in ASAL regions. While precipitation is projected to increase between 0.2 and 0.4 percent per year in Kenya, the direction and magnitude of change will vary considerably across regions and warming-induced increases in evaporation rates are likely to offset the benefits of precipitation increases in some regions. Meeting this challenge will require both investments in building resilience to near-term shocks and in adapting to long-term climate change. In this context, climate smart agriculture (CSA) under ECAAT offers an appropriate strategic framework for responding to and reducing the adverse effects of climate change.

32) The proposed ECAATP project will help Kenya meet the rising demand for food; and attain the Sustainable Development Goals (SDGs) of ending poverty (SDG1) and hunger (SDG2) and combating climate change and its impacts (SDG13). But this would require investing in agricultural technologies, innovations and management practices (TIMPs) that would lead into enhanced regional collaboration for improved productivity, resilience, and competitiveness of selected agricultural commodity value chains and increase smallholder farmer access to the regional market for food commodities and products.

33) ECAATP will, support strategic interventions that are considered to be key elements of agricultural transformation including: therefore, (i) enhancing technology of production along commodity value chains, including by providing farmers with access to technical knowledge and improved seeds and breeds; (ii) building resilience in primary agriculture to changing climate and promoting nutrition-sensitive agriculture and food safety; (iii) developing critical skills to meet the needs of current and future food systems, including skills required by private and public sectors; (iv) forming partnerships and alliances that connect farmers with markets and enable farmers to understand market needs and produce for the market, (v) regional integration of markets for technology of production, food commodities and food products; and (vi) facilitating a policy and regulatory environment that actively enables regional collaboration in developing solutions across the value chain and encourages private-sector participation, including in technology development

34) **Brief Description of Project:** The Government of Kenya will receive a credit from the International Development Agency (IDA – World Bank Group) to finance the preparation of the East and Central Africa Agricultural Transformation Project (ECAATP). The project preparation is under the overall responsibility of Ministry of Agriculture and Irrigation (MoA&I).

35) **Description of Project Areas:** ECAAT project will cover the 21 counties that were consultatively selected using agreed criteria. The included counties previously covered under EAAPP and additional ones for up/outscaling and to accommodate additional commodities/value chains. These include the following:

- Dairy (12) - Murang'a, Nyeri, Nyandarua, Meru, Elgeyo Marakwet, Uasin Gishu, Kakamega, Vihiga, Migori, Nyamira, Garissa and Taita Taveta
- Wheat (3) - Narok, Nyeri and Nakuru
- Rice (4) - Kisumu (Ahero Irrigation Scheme in Nyando Sub county), Homabay, Meru and Busia (Bunyala Irrigation Scheme)
- Beans (5) - Kitui, Busia, Narok, Nyeri and Machakos
- Indigenous Poultry (6) - Busia, Kitui, West Pokot, Kakamega and Taita Taveta

36) **The Project Development Objective (PDO):** The PDO of ECAATP is to enhance regional collaboration to improve productivity, resilience, and competitiveness of selected agricultural commodity value chains and increase smallholder farmer access to the regional market for food commodities and products". To achieve the PDO the project will focus on structural transformation for growth and poverty reduction through competitiveness, resilience to shocks, and macro stability through: (a) boosting agriculture productivity to improve the sectors competitiveness; (b) skills development, including technical skills and higher education, to generate competent skills that meet the needs of the private and public sectors; (c) building competitiveness of smallholder farmers to access formal regional markets for food; (d) nutrition sensitive agriculture to address malnutrition and contribute to long-term human capital development; and (e) climate smart agriculture practices to build



resilience in the food system. In this context, the project will seek regional solutions to: (i) generate highly productive technologies and improve farmers access to the technologies, innovations, and management practices; (ii) adapting to the threat of climate change, through a regional approach to development of resilient technologies (seeds and breeds) and management practices that improve water use efficiency; (iii) improve smallholder farmers access to regional value chains and removing barriers to movement of agricultural inputs and produce; (iv) leverage human capital and skills that may not be available in each country to support regional agenda for transformation of agriculture; (v) develop skills for the food system to meet the needs of public and private sectors; and (vi) promote innovative approaches in the business of agriculture and create sustainable regional collaboration for agriculture transformation.

37) **Project Components:** The project has 5 components. **Component 1: Regional Commodity Programs:** This component will support regional collaboration in the development of agricultural technologies, innovations, and management practices (TIMPs) for selected commodities and to facilitate exchange and dissemination of the TIMPs across national boundaries. The focus will be on (i) efficient use of existing knowledge, technical expertise, institutional capacity and physical facilities; (iii) faster development of new technologies, innovations, and management practices; and (iv) organized transfer of genetic materials, germplasms, planting materials, breeding stock and technologies across national boundaries. The project's investments in the regional centers will strengthen the human, institutional, and infrastructure capacities to enable the centers become platforms for: (i) coordinating regional priorities for development of agricultural TIMPs; (ii) advancing innovations and solutions along value chains, including post-harvest management, food safety, and development of food products; (iii) establishing linkages with global sources of knowledge, including CGIAR centers, US land grant universities, and national and regional universities; and (iv) establishing strong linkages with the private sector, especially agribusinesses involved in both input and output markets for food commodities and products. The project will also finance activities to eventually transform the selected centers into certified Regional Centers of Excellence for a specific commodity or group of commodities, based on agreed criteria. The support will include: (a) establishing formal network of researchers and other collaborators in regional commodity programs; (b) capacity building on leadership and governance; (c) physical infrastructure such as scientific labs and incubation centers. **Component 2: Enabling Policies and Agricultural Markets:** This component will support (i) creation of an enabling policy and regulatory environment for regional collaboration in development, transfer, and exchange of technologies; and (ii) Improvement of smallholder farmer's access to regional and national markets for food commodities and products. This will be realized through creating enabling policies and linking smallholder farmers' access to markets to regional and national markets. **Component 3: Agriculture Education, Skills Development, and Service Delivery:** This component will support investments in the provision of the current and future labor force with critical knowledge and skills that: (a) promote faster technical change in agriculture, especially in technology development, and innovations to improve access to markets; (b) meet the needs of private sector agribusinesses and the public sector – including policy analysis; (c) are likely to be

employable by the food system now and in the future; and (d) encourage innovation and entrepreneurship in transforming agricultural value chains and linking primary agriculture with the emerging food system and formal markets. Three sub-components are proposed to contribute to this objective: (i) establishment of centers of leadership/excellence in key disciplines of agriculture education; (ii) enhancing skills of stakeholders along value chains; and (iii) promoting effective models for service delivery. **Component 4: Contingent Emergency Response:** This zero-cost component will finance eligible expenditures under the Immediate Response Mechanism (IRM) in case of natural or man-made crises or disasters, severe economic shocks, or other crises and emergencies in the ECAAT project countries. This contingency facility can be triggered through formal declaration of a national emergency by the government authority and upon a formal request from government of the participating country to the World Bank through the Ministry of Finance/National Treasury. In such cases, funds from other project components will be reallocated to finance emergency response expenditures to meet agricultural crises and emergency needs. The emergency response would include mitigation, recovery, and reconstruction following crises and disasters, such as severe droughts, floods, disease outbreaks, and landslides, among others. **Component 5 Project Coordination and Management:** This component will focus on project coordination and management at national and regional levels. Activities financed under this component will comprise coordination, fiduciary aspects, M&E, Environment and Social Safeguards (Monitoring and Compliance), and day-to-day implementation of the project.

38) **Project Beneficiaries:** The direct beneficiaries of the project are estimated at about 115,000 smallholder farmers and pastoralists in selected counties. Producer organizations (POs), Vulnerable and Marginalized Groups (VMGs), micro-small-and-medium enterprises will also directly benefit from the project interventions. The indirect beneficiaries will be staff of the national and county governments (including ward level) departments, Middle Level Training institutions (Dairy Training Institute, Kenya School of Agriculture, AHITI, Livestock Training Institute and AHITIs) and semi-autonomous government agencies (KALRO, KAGRC and KEPHIS, among others). These institutions will benefit from the technical and institutional capacity building interventions under the project.

39) Given the array of development TIMPs envisaged in the proposed ECAAT project the WB Involuntary Resettlement Policy (OP/BP 4.12) is triggered here as a precautionary measure. This policy is triggered if the Bank Financed Project is likely to cause loss of land or other assets resulting in: (i) relocation or loss of shelter; (ii) loss of assets or access to assets (including legally protected parks and protected areas resulting in adverse impacts upon livelihoods); and (iii) loss of income sources or means of livelihood, whether or not the affected people must move to another location or not. If this WB Involuntary Resettlement Policy (OP/BP 4.12) is triggered, preparation of Resettlement Action Plan (RAP) as a condition for appraisal is done by the borrower and / or An Abbreviated Resettlement Action Plan (ARAP) is done where ‘impacts are considered "minor" if the affected people are not physically displaced and less than 10 percent of their productive assets are lost’.

40) In the case of the ECAATP, impacts are not known at the time of appraisal, and so, the borrower has developed Resettlement Policy Framework (RPF). Subsequently, detailed RAPs will be needed during implementation

## **1.2. Purpose of the Resettlement Policy Framework (RPF)**

41) The RPF will provide project stakeholders with procedures to address compensation issues as related to affected properties and livelihoods including land, assets and income generating activities during project implementation. The objectives of the Resettlement Policy Framework (RPF) are to:

- Establish the ECAATP resettlement and compensation principles and implementation arrangements;
- Describe the legal and institutional framework underlying Kenyan approaches for resettlement, compensation and rehabilitation;
- Define the eligibility criteria for identification of project affected persons (PAPs) including VMGs and entitlements (see Table 2);
- Describe the consultation procedures and participatory approaches involving PAPs, VMGs and other key stakeholders; and
- Provide procedures for filing grievances and resolving disputes

**Table 2: Matrices on Asset Acquired and Compensation Entitlement**

| <b>ASSET ACQUIRED</b>    | <b>TYPE OF IMPACT</b>   | <b>ENTITLED PERSON</b> | <b>COMPENSATION ENTITLEMENT</b>  |
|--------------------------|---|------------------------|--|
| <b>AGRICULTURAL LAND</b> | No displacement. Less than 20% a fraction of the land holding affected.                     | Farmer /title holder   | Land for land as the priority compensation and Cash compensation for affected land equivalent to market value as the last option   |
|                          |   | Tenant/lease holder    | Cash compensation for the harvest of the affected land equivalent to average market value of the last 3 years OR market value of the crop for the remaining period of tenancy/lease agreement whichever is greater   |
|                          | <b>Displacement:</b> less than 20% of the fraction of land holding lost economically viable | Farmer /title holder   | Land for land replacement where feasible or compensation in cash for the entire land holding according to PAPs choice. Land for land replacement will be in terms of a new parcel of equivalent size and productivity with a secure 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<br><br>Relocation assistance (cost of shifting + assistance in re-establishing economic trees + allowances up to a maximum of 12 months while short term crops mature) |
|                          |   | Tenant /lease holder   | Cash compensation equivalent to average of the last 3 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<br><br>Relocation assistance (costs of shifting + allowance).  |

|                        |  |                                |  |
|------------------------|--|--------------------------------|--|
|                        |  | Agricultural worker            | Cash compensation equivalent to local average of 6 months' salary<br>Relocation assistance (Costs of shifting + allowance)<br>Assistance in getting alternative employment   |
| <b>COMMERCIAL LAND</b> | <b>No displacement:</b><br>Land used for business partially affected, limited loss                                     | Title holder/Business owner    | Cash compensation for affected land where a business is viably operated.<br>Opportunity cost compensation equivalent to 5% of net annual income based on tax records for previous year (OR tax records from comparable business OR estimate where such records do not exist).  |
|                        |  | Business owner is lease holder | Opportunity cost compensation equivalent to 10% of net annual income based on tax records for previous year (all tax records from comparable business or estimates where such records do not exist).   |
|                        | <b>Displacement:</b><br><br>Premise used for business severely affected, remaining area insufficient for continued use | Title holder/Business owner    | Land for land replacement or compensation in cash according to PAPs choice plus compensation for structures. Land for land replacement will be provided in terms of 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.<br>Transfer of the land to the PAP shall be free of taxes, registration and other costs.<br>Relocation assistance (cost of shifting + allowance)<br>Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (OR tax records from comparable business or estimates) |
|                        |  | Business person is             | Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (OR tax   |

|                         |   |                                      |   |
|-------------------------|---|--------------------------------------|---|
|                         |   | lease holder                         | records from comparable business or estimates) OR relocation allowance whichever is higher.<br>Relocation assistance (Cost of shifting)<br>Assistance in rental/lease of alternative land/property (for a maximum of 6 months) to re-establish the business.  |
| <b>RESIDENTIAL LAND</b> | <b>No displacement:</b><br>Land used for residence partially affected, limited loss, and the remaining land remains viable for present use  | Title holder                         | Cash compensation for affected land   |
|                         |   | Rental/Lease holder                  | Cash compensation equivalent to 10% of lease/rental fee for the remaining period of rental/lease agreement (written or verbal)  |
|                         | <b>Displacement:</b><br>Premise used for residence severely affected, remaining area insufficient for continued use or becomes smaller than minimally accepted under zoning law/s | Title holder;<br>Rental/Lease holder | Land for land replacement or compensation in cash according to PAPs choice. Land for land replacement shall be of 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 relocated plot, cash compensation to cover the difference in value. Transfer of the land to the PAP shall be free of taxes, registration and other costs.<br>Relocation assistance (cost of shifting + allowance)<br>Refund of any lease/rental lease paid for time/use after date of removal<br><br>Cash compensation equivalent to 3 months of lease/rental fee |

|                                |   |                     |   |
|--------------------------------|---|---------------------|---|
|                                |   |                     | Assistance in rental/lease of alternative land/property<br><br>Relocation assistance (cost of shifting + allowance)   |
| <b>BUILDING AND STRUCTURES</b> | <b>No Displacement:</b><br>Structure partially affected but the remaining structure remains viable for continued use                                  | Owner               | Cash compensation for affected building to the extend not viably feasible and other fixed assets<br><br>Cash assistance to cover cost of restoration of the remaining structure   |
|                                |   | Rental/Lease holder | Cash compensation for affected assets (verifiable improvements to the property by the tenant e.g. a fence)<br>Disturbance compensation equivalent to 2 months rental cost   |
|                                | <b>Displacement:</b><br>Entire structure affected<br>OR<br>Structure partially affected but the remaining structure is not suitable for continued use | Owner               | Cash compensation for entire structure and other fixed assets without depreciation, or alternative structure of equal or better size and quality in an available location which is acceptable to the PAP.<br>Right to salvage materials without deduction from compensation<br>Relocation assistance (cost of shifting + allowance)<br>Rehabilitation assistance if required (assistance with job placement, skills training) |
|                                |   | Rental/Lease holder | Cash compensation for affected assets (verifiable improvement to the property by the tenant e.g. a fence)<br>Relocation assistance (cost of shifting + allowance equivalent to 4 months rental cost)<br>Assistance to help find alternative rental arrangements<br>Rehabilitation assistance if required (assistance with job placement, skills training)   |
|                                |   | Squatters/Inf       | Cash compensation for affected structure without depreciation   |

|                          |   |  |   |
|--------------------------|---|--|---|
|                          |   | ormal dwellers   | <p>Right to salvage materials without deductions from compensation</p> <p>Relocation assistance (Cost of shifting + assistance to find alternative secure accommodation preferably in the community of residence through involvement of the project CBO.</p> <p>Alternatively, assistance to find accommodation in rental housing or in a squatter settlement scheme if available)</p> <p>Rehabilitation assistance if required (Assistance with job placement, skill training)</p> |
|                          |   | Street vendor (Informal without Title or Lease to the store or shop) | <p>Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (OR tax records from comparable business or estimates), or the relocation allowance, whichever is higher (tax records gathered from tax returns)</p> <p>Relocation assistance (Cost of shifting)</p> <p>Assistance to obtain alternative site to re-establish the business</p>  |
| <b>STANDING CROPS</b>    | Crops affected by land acquisition or temporary acquisition or easement | PAP (Whether owner, tenant, or squatter)                             | Cash compensation equivalent to average of the last 3 years market value for the mature and harvested crop  |
| <b>TREES</b>             | Trees lost  | Title holder   | Cash compensation based on type, age, and productive value of affected trees PLUS 10% premium   |
| <b>TREES ACQUISITION</b> | Tress acquisition or destroyed to pave way                              | PAP (Whether   | Cash compensation for any assets affected (e.g. boundary wall demolished, trees removed)  |



|  |  |  |  |
|--|--|--|--|
|  |  | owner,<br>tenant, or<br>squatter –<br>this is where<br>the minority<br>communities<br>fall under as<br>reflected in<br>annex 12) |  |
|--|--|--|--|

42) The RPF will apply to all sub-projects/ activities to be identified in a participative manner with target communities within the project target areas. The procedures will be carried out through-out preparation and implementation and impacts of any potential resettlement will be included in monitoring and evaluation (M&E). When a Resettlement Action Plan (RAP) is required, it will be prepared in accordance with guidance provided for in this RPF, including detailed measurement surveys, identification (census) of VMGs, PAPs/displaced persons, and public consultation and disclosure procedures (PCDP) (REA, 2015). This RPF follows the guidance provided for in the WB Involuntary Resettlement Policy (OP/BP 4.12). This RPF ensures that any possible adverse impacts of proposed Sub-project activities are addressed through appropriate mitigation measures, in particular, against potential impoverishment risks. These risks will thus be minimized by:

- Avoiding displacement of persons without a well-designed compensation and relocation process;
- Minimizing the number of PAPs to the extent possible;
- 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.

## 2.0 PROJECT DESCRIPTION AND RATIONALE FOR RPF

43) **Justification for the Project Areas:** ECAAT project will cover the 21 counties that were consultatively selected using criteria below:

- Up/out-scaling of TIMPs developed under former EAAPP areas.
- Number of existing sector programs and projects
- Agro-ecological zones in relationship to targeted commodities.
- Complementarity with identified priority value chains in CIDPs and willingness of counties to partner with project and co-finance project costs
- Clustering of project areas (sub counties) to reduce operational and maintenance costs in project implementation and leverage on existing project implementation structures

Based on the above agreed selection criteria the following 21 counties will participate in the project, while focusing on the specific regional commodity VCs (VCs): (i) Dairy (Murang'a, Nyeri, Nyandarua, Meru, Elgeyo Marakwet, Uasin Gishu, Kakamega, Vihiga, Migori, Nyamira, Garissa and Taita Taveta); (ii) Indigenous Poultry (Busia, Kakamega, West Pokot, Kitui, Taita Taveta and Kilifi); (iii) Beans (Kitui, Busia, Narok, Nyeri and Machakos); (iv) Wheat (Narok, Nyeri, Nakuru and Meru); (v) Rice (Kisumu, Homabay, Meru and Busia); and (vii) Cassava (Busia, Kilifi and Migori).

### 2.1. Land, Tenure and Land use and Related Issues

**Table 3: Land classification in Kenya and Respective Acts**

|  | PRIVATE LAND  | PUBLIC LAND   | COMMUNITY LAND   |
|--|---|---|--|
| <b>KEY LAW<br/>S APPLICABLE TO EACH CATEGORY OF LAND</b> | Land Act (Act No. 6 of 2012)<br><br>Land Registration Act (Act No. 3 of 2012)<br><br>Land control act 1967<br><br>National land commission act (Act No. 5 of 2012) 2012<br><br>Environmental Management and Coordination Act (EMCA CAP 385) Revised 2015<br><br>Forest Act (Act No. 7 of 2005) Revised 2012: section two of the act provides that the act shall apply to all forests and woodlots on private land | Land Act (Act No. 6 of 2012)<br><br>Land Registration Act (Act No. 3 of 2012)<br><br>Land control Act 1967/Revised 2010<br><br>National land Commission Act (Act No. 5 of 2015)<br><br>Environmental Management and Coordination Act (Act No. 8 of 1999) Revised 2012<br><br>Forest Act (Act No. 7 of 2005) Revised 2012: section two of the act provides that the act shall apply to all forests and woodlots on private land<br><br>Wildlife (conservation and management) Act 2013 | New Community Land Act (TBC). In lieu of this new Act, existing law applies: <ul style="list-style-type: none"> <li>• Land Act 2012</li> <li>• Land Registration Act 2012</li> <li>• Land Control Act 1967</li> <li>• National Land Commission Act 2012</li> <li>• Trust Land Act, Chapter 288, Revised 2009</li> <li>• Land (Group Representatives) Act, Chapter 287/Revised 2012</li> <li>• Land Adjudication Act, Chapter 284/Revised 2010</li> <li>• Land Consolidation Act, Chapter 283/Revised 2012</li> </ul> |

|  | PRIVATE LAND   | PUBLIC LAND | COMMUNITY LAND   |
|--|--|-------------|--|
|  |  |             | <ul style="list-style-type: none"> <li>• Environmental Management and Coordination Act (Act No. 8 of 1999) Revised 2012</li> </ul> |
|  | <b>FOREST LAND</b><br>Forest Act (No. 7 of 2005) Revised 2012<br>Environmental Management and Coordination Act (Act No. 8 of 1999) Revised 2012<br>Wildlife (conservation and management) Act 2013 |             |  |

## 2.2 Land Acquisition and the Process of Expropriation

44) Procedure for Acquisition of Private Land in Kenya can be in two ways: purchase or issued out by a willing donor. Expropriation which refers to the taking away of private land and landed property for public purpose by the government with or without the owner's consent subject to laws of eminent domain is not applicable in the context of this project. In Kenya "setting apart" for unregistered Trust Land and "Compulsory acquisition" for all registered private lands are the terms commonly in use and again in this project it is not expected to be used.

### a) Purchase Land

45) In practice, the procedure for acquiring an interest in private land is to enter into a contract for the sale and purchase of the land with a defined completion period. The process is subject to freedom of contract but there are also guidelines from the Law Society of Kenya (LSK), set out in the Law Society of Kenya Conditions of Sale, to guide the legal practitioners facilitating land transactions.

46) The key stages are as follows: (i) Payment of the deposit and signing of the sale agreement; (ii) Preparation to complete; (iii) Completion; and (iv) Registration.

### b) Deposit

47) A deposit is usually ten per cent (10%) of the purchase price and is paid by the purchaser as a commitment to the transaction. Before paying the deposit, it is imperative to carry out a search of the Register and obtain a Certificate of Official Search, to ascertain the true owner of the land, Section 29 of the Land Registration Act provides that every proprietor at the time of acquiring a land, lease, or charge shall be deemed to have had notice of every entry in the register relating to the land, lease, or charge. The deposit will often be held by the vendor's lawyer prior to completion of the transaction. Although the vendor may want the money released to them, this is not considered good practice: in the event that the transaction fails, the purchaser would be left only with the option of suing for the return of the deposit. However, if the deposit is held by a lawyer, it will be available for return to the purchaser.

Once the deposit is paid, both parties sign the sale agreement. A period of time is also allowed for the transaction to complete (Yvonne, 2014).

**c) Preparation to Complete**

48) The sale agreement will provide for a completion period, usually of 90 days. The agreement should specify how completion will take place - whether by: exchange of title, the instrument of transfer and completion documents with the funds in respect of the balance of purchase price; or by exchange of the documents with an undertaking.

49) In the period between signing of the agreement and the completion date, the vendor pays the outgoings on the property, such as land rent for leaseholds and rates for properties in the county governments. The vendor also procures the clearances and consents necessary to register the title in favour of the purchaser.

**d) Completion**

50) On or before the date set for completion, the vendor's lawyer procures the transfer executed by the vendor in favour of the purchaser and sends a copy of this to the purchaser's lawyer as an indication of the vendor's readiness to complete. The purchaser will then pay the balance of purchase price to the vendor's lawyers. In exchange, the vendor's lawyer sends to the purchaser's lawyers all the documents that are necessary for the purchaser to register the title in the purchaser's name. In the event that completion is by undertaking, the documents will be sent in exchange of the undertaking. Ideally, the vendor's lawyer should hold the balance of the purchase price and the balance until the Title is in the name of the Purchaser and then thereafter release it to the vendor.

**e) Registration**

51) Upon receipt of the documents from the vendor's lawyers. The purchaser's lawyer then proceeds to pay stamp duty on the transaction. This is usually assessed at 4% of the purchase price for land in municipalities and towns, and 2% for land in rural areas. Before the transfer is registered, a government valuer will assess the property to confirm that sufficient stamp duty was paid against the value of the property. After valuation, the purchaser's lawyer goes ahead to present all the documents to the Registrar of Lands, then the transfer is registered and the title issued, reflecting the changed ownership of the land.

52) The Certificate of Title issued by the Registrar upon registration or issued to a purchaser of land upon a transfer or transmission by the proprietor is prima facie evidence that the proprietor is the absolute indefeasible owner of the land subject to any encumbrances noted on the register. Under Section 81 of the Land Registration Act, any person suffering damage by reason of an error in a copy of or extract from the register is entitled to indemnity from the Government.

#### **f) Voluntarily Donated Land (VDL) for Community Sub-project<sup>4</sup>**

53) Where community Sub-projects fall under private land and the owner of this land is willing to surrender/donate it for the said community project; then the following should take precedence in acquiring such land: (i) the offer must occur in a community meeting where beneficiaries are present; (ii) the community Sub-project leaders together with the private land owner invite the area Chief or Ward Administrator; (iii) then an MoU is drawn and signed where copies are kept by all parties involved (community, Area Chief and the private land owner). This process would ensure that the private land owner would not in future claim the community project. Such donation can only occur with the consent of PAPs using or occupying the land in case of communally owned land.

54) The main characteristics that fall such VDL include: in-kind land contributions from the community for Development projects – may be donated by clans, families, individuals for the good of the community; the owner may contribute the land on a purely voluntary basis or may ask for in-kind compensation to part with the land; may involve a long history for community development; basically the VDL is popular in CDD type of projects in the following sectors: public works, water, agriculture, decentralization delivery, school and health projects just to name a few. The communities VDL have notable challenges that should always be safeguarded including: ensure that land donation is “truly” a voluntary decision and not “forced voluntary”; who is donating and who is being affected? ensure that the donation of land does not cause any significant reduction in family land size and livelihood; ensure that communal land practices are not severely altered due to WB requirements; VLD decisions can divide community and cause future disputes if not well consulted and documented; legal issues i.e. taxes; is there need to subdivide and transfer land title?; the many small scale sub-projects, geographically spread and often located in remote rural communities, what challenge do they pose for implementation and monitoring of safeguards? And ensure that the project provides various options for siting sub projects. None the less, the proposed ECAAT investments are under institutional land and very little if any land take is anticipated. Where investments will be undertaken involving VDL, the donor should be appropriately informed and consulted and the necessary document done and records kept by the borrower and the relevant institutions. The donor, in this case, need to be appropriately informed and consulted beforehand about the sub project, and that the Borrower would keep a record of all consultations and agreements and that donation can only occur with the consent of PAPs using or occupying the land in the case of community lands.

## **2.2 Activities that may require land acquisition under ECAATP**

Components 1, 2 and 3 may have activities that may require land acquisition as highlighted in table 3 below.

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<sup>4</sup> Note that the Government of KENYA is in the process of enacting a new Act on community land and this will impact on how these community land donations are made for designated community owned land.

**Table 4: Component activities that may require land acquisition**

| Project Components & Sub Components  | Activities   |
|--|--|
| Subcomponent 1.1: Establishment and strengthening of regional centers of leadership and national centers of specialization | <ul style="list-style-type: none"> <li>• Construction and installation of Livestock and Crop post-harvest management and handling facilities</li> <li>• Construction of Agribusiness Development Centers</li> <li>• Construction of Biosafety/Security facilities</li> </ul>   |
| Sub Component 1.2: Collaborative development, transfer, and dissemination of agricultural technologies.                    | <ul style="list-style-type: none"> <li>• Land husbandry Management (sustainable soil and water management, drought resistant/tolerant crops, conservation agriculture, collecting shades/aggregation and market centres, , pre and post-harvest crop management etc.</li> <li>• Forage production, storage and marketing,</li> </ul> |
| Sub Component 2.1: Establishment and strengthening of centers of leadership in agriculture education                       | <ul style="list-style-type: none"> <li>• Construction of state of the art facilities in support of Agricultural Education and Skills Development (Under support to Skills/Institutional Development Plans)</li> </ul>  |
| Sub Component 2.2: Enhancing skills of stakeholders along value chains; and  | <ul style="list-style-type: none"> <li>• Construction of state of the art facilities in support of Agricultural Education and Skills Development (Under support to Skills/Institutional Development Plans)</li> </ul>  |
| Sub Component 2.3: Promoting effective models for service delivery   | <ul style="list-style-type: none"> <li>• N/A</li> </ul>  |
| Sub Component 3.1: Enabling policies   | N/A  |
| Sub Component 3.2: Linking smallholder farmers access to markets to regional and national markets.                         | <ul style="list-style-type: none"> <li>• Construction of Post – harvest management and handling (Aggregation) facilities</li> </ul>  |

### 2.3 Resettlement Impacts

55) This RPF considers project affected people as those who stand to lose, as a consequence of the project, all or part of their physical and non-physical assets, including

homes, communities, productive lands, resources such as forests, range lands, fishing areas, or important cultural sites, commercial properties, tenancy, income-earning opportunities, and social and cultural networks and activities. Such impacts may be permanent or temporary. This might occur through land expropriation, using eminent domain or other regulatory measures, and include restricted or reduced access to legally designated parks and protected areas such as gazetted forests.

56) While there are different levels and types of sub projects, community driven development projects can be defined as “projects for which the majority of investment funding is for a large number of small and scattered subprojects. Such subprojects may be multi-sectoral or may be limited to a single sector, such as agriculture or multi-sectoral with the following characteristics relevant to safeguard issues:

- Overall size – small to medium
- Often aimed at rural development
- Numerous, scattered sub-projects
- Nature and scope of sub-projects not known at the time of appraisal
- Sub-projects selected by a community-driven mechanism
- Implementation governed by an Operational Manual (OM) or equivalent
- Monitoring and evaluation (M&E) mechanisms fairly elaborate to capture the quantity and quality of project outcomes.

57) Identified Project Social Risks: It should be noted that minimal resettlement is anticipated under this project and is only likely to occur for sub-projects linked to building local community and county infrastructure and assets. The kinds of sub-project activities to be undertaken are anticipated to have minimal adverse social risks and can be sited in such a way as to avoid the physical relocation of people.

58) ECAATP does not envisage any physical displacement of people (including the vulnerable and marginalized communities who live in the forests and water towers). The project’s Environmental and Social Management Framework (ESMF) clearly specifies that the project will not finance any micro project or subproject that is in the natural forests or that requires conversion of natural forests, or changes the management and protection of natural forests, or promotes utilization of natural forests or plantations.

59) ECAAT Project is environmentally categorized B and therefore the anticipated sub projects will have risks and impacts which will be largely insignificant, reversible, predictable and easy to mitigate.

60) The exact sub-project sites for the project are not yet identified. Therefore at this stage it is neither possible to determine the exact location, demography and impact on assets and/or livelihood of neither the PAPs nor the resettlement related impoverishment risks they



might face, if any. As result the client adopted a framework approach to guide in mitigate against unforeseen land take

61) Generally, no physical resettlement is envisaged under all ECAAT Project components because most the proposed investments are institutional based. However, once the sites are established and it becomes clear that there will be economic or physical impacts that require land take, sub-project RAPs will be prepared as per Involuntary Resettlement (OP/BP 4.12) guidelines. A Resettlement Action Plan (RAP) will be done where more than 200 individuals are displaced. An Abbreviated Resettlement Plan (ARP) will be formulated where less than 200 individuals are displaced. In some instances, Abbreviated Resettlement Action Plans (ARAPs) are required where sub projects affect more than 200 people and ‘impacts are considered "minor" if the affected people are not physically displaced and less than 10 percent of their productive assets are lost’.

62) The policy framework applies to all economically and/or physically displaced persons regardless of the total number affected by the severity of impact and whether or not they have legal title to the land. Particular attention will be paid to the needs of vulnerable groups among those economically and/or physically displaced especially those below the poverty line, the landless, youth, the elderly, women and children, indigenous groups, ethnic minorities and other historically disadvantaged groups or other economically and/or physically displaced persons who may not be protected through Kenya’s land compensation legislation.

63) Potential Project Impacts - The potential impacts may include but not limited to the following as shown in the table 5 below.

Table 5: Potential Social Impacts Associated with the Project

| No. | Type of impact                            | Description of potential impact / issue   | Social significance | Proposed Mitigation measure  |
|-----|---|---|---------------------|--|
| 1   | Land use and utilization                  | Condition and size of existing land is likely to be changed due to adoption of more cropping than livestock systems.<br>Some Pastoralists (e.g. Namanga where 30 acres were acquired establishment of a cross –border quarantine station) are likely to lose grazing grounds for their livestock and this may lead to resource use Conflicts between pastoralists and the upcoming institution due to the presence of grazing fodder and pastures when all other surroundings are dry and withered. | Highly rated        | Undertake a comprehensive stakeholder engagement as well as citizen engagement to ensure that solutions are arrived at in a participative manner.<br>Sensitization of the communities on the advantage of the institution. |
| 2   | Inequality on incomes, and other benefits | Disruption of socio-cultural fabric may lead to inequality aspects like gender and inter-generational (youth) disparities in community micro project memberships or as a result of non-inclusivity to community sub-projects and non-ownership of production resources e.g Muranga Youth – Ihiga-ini Bunge Youth Group.   | Highly rated        | Undertake a Social Analysis and a Social Assessment in order to guide implementation decisions.<br>Ensure inclusivity in all community sub projects.<br>Enhance capacity building of the youth group                       |

|   |   |  |              |  |
|---|---|--|--------------|--|
| 3 | Community livelihoods and household farm production, profits, incomes, etc. | At project implementation land will be cleared during land preparation. Both pastoral and agro-pastoral systems will lose relatively more grazing land to cropping systems. The ASAL counties depend predominantly on livestock as a source of household income and a livelihood activity e.g. reseeded investments in ASALs may not be out rightly favorable to the communities | Highly rated | Undertake simple cost benefit analysis along the proposed value chains for the respective TIMPs<br>Intensify capacity building of the target communities on livelihood diversification |
|---|---|--|--------------|--|

## 2.4 ECAATP Categories of PAPs

### 2.4.1 Introduction

64) Land acquisition for Sub-projects may result in negative impacts to different categories of PAPs. Until the exact Sub-project locations are determined it is not possible to estimate the likely number of people who may be affected, because the technical details of the Sub-projects have not yet been developed. However, the likely displacement (economical or physical) persons can be categorized into these 3 groups:

- a) **Affected Individual:** Individual who risk losing assets, investments, land, property and/or access to natural and/or economical resources as a result of a ECAATP Sub-project. This could be a person, who farms on steep slopes or who gather fire wood in gazetted forests.
- b) **Affected Household:** A household is affected if one or more of its members are affected by any ECAATP Sub-project. This includes: (i) any members in the households, men, women, youth, children, dependent relatives and friends, tenants; (ii) Vulnerable individuals who may be too old or ill to farm along with the others; (iii) Members of households who cannot reside together because of cultural rules, but who depend on one another for their daily existence; (iv) members of households who may not eat together but provide housekeeping or other activities critical to the family's maintenance; and (v)

Other vulnerable people who cannot participate, due to being physically challenged or for cultural reasons, in production, consumption, or co-residence (GoK, 2011).

Compensation will not be limited to people who live together in a co-resident group, since this might leave out people whose labour contributions are critical to the functioning of the “household”. For example, in polygamous settings, there are situations where each wife has her own home.

c) **Vulnerable Households:** Vulnerable households may have different land needs from most households or needs unrelated to the amount of land available to them. Vulnerable households include:

- i. **Vulnerable and Marginalized Groups** - are often closely tied to their traditional or customary lands and natural resources on these lands, but these lands may not be under legal ownership pursuant to national law. Due to this, any form of resettlement embodies for vulnerable and marginalized groups more serious risks than for any other **populations and should** consequently **be avoided at all costs**. If this is not feasible, the vulnerable and marginalized groups’ land use will be documented by experts in collaboration with the affected households without prejudicing any land claim, the affected vulnerable and marginalized groups will be informed of their rights with respect to these lands under national laws, including any national law recognizing customary rights or use, the project will offer affected vulnerable and marginalized groups at least compensation and due process available to those with full legal title to land in the case of commercial development of their land under national laws, together with culturally appropriate development opportunities; land-based compensation or compensation-in-kind will be offered in lieu of cash compensation where feasible and the project will enter in good faith into a negotiation with the affected vulnerable and marginalized groups, and document their informed participation and the successful outcome of the negotiation.
- ii. **Single women** – who may be dependent on sons, brothers, or others for support. Since an affected individual is able to name the person with whom s/he is linked in dependency as part of the household, resettlement will not sever this link.
- iii. **Elderly** – elderly people farm or work as long as they are able. Their economic viability may depend on how much land they farm or how much they produce because, by producing even small amounts of food to “exchange” with others, they can subsist on cooked food and generous return gifts of cereal from people such as their kith and kin and neighbours. Losing land will affect their economic viability. What would damage their economic viability even more than losing land is

resettlement that separates them from the person or household on whom they depend for their support. The definition of household by including dependents avoids this.

- iv. **HIV/AIDS afflicted persons** – relatively high percentages of the poor and total population are living with HIV or are terminally ill with AIDS. Many are beneficiaries of numerous health programs from government (central and local), international organizations and the NGO community.
- v. **Orphans and street children** – due to the impacts of the AIDS crisis that plagues Kenya today, there are a considerable number of orphaned children, whose parents have died from AIDS. The number of People Living with HIV (PLHIV) is estimated to have increased from about 1.4 million in 2009 to 1.6 million in 2013. Women constitute about 57% of the PLHIV, while men account for 43%. About 80% to 90% of the PLHIV are adults (GoK 2014). Children are more vulnerable since they are often “voiceless” because they have no parents to defend or stand up for them and also because they are considered too young to be heard. Orphaned children engage in any form of economic activity to provide for themselves and their siblings, by engaging in activities such as manual work at open air markets, transporting of loads for short distances in centres scavenging for waste paper, metals and other exploitative employment, etc.
- vi. **Woman-headed households** – may depend on husbands, sons, brothers, or others for support. However, in other cases too, women are the main breadwinners in their household even where the men have remained with the family. Women therefore need relatively easy access to health service facilities, as mothers and wives. For example, where the land being acquired is used by a woman with no formal rights to it or a woman who is dependent on a man other than her husband for her primary income. These women should not be resettled in a way that separates them from their households as the very survival of their households may depend on them. Their compensation must take into account all these factors.
- vii. **Smallholder female farmers** - are also vulnerable because they may not have men available within the household to carry out male specific land preparation tasks such as bush clearing, digging, harrowing, ridging, holing for bananas or ploughing land.
- viii. **Non-farming females** – these earn income from other sources and/or depend on relatives for “exchanges” of staple foods. Since they do not farm they will not be affected by the Sub-projects need for agricultural land. If a building of theirs lies on land needed by a Sub-project, they will receive replacement cost compensation. If

someone on whom they depend is resettled, they are protected because the resettler can name them as part of the household.

65) These groups could be identified as being particularly vulnerable to land acquisition activities, and as such the following considerations will be made when project sites are identified and PAPs listed:

- a) Special consideration should be paid to these groups by identifying their needs from the socio-economic and baseline studies undertaken as part of the RAP and RPF process;
- b) The groups should be individually consulted and given opportunities to participate in the resettlement decision-making process, as well as project activities;
- c) Consultation with these groups should ensure that resulting resettlement and compensation improves their pre-project livelihood;
- d) The RAPs and RPFs should be designed to ensure special attention is paid to the monitoring of the resettlement process in order to ensure that pre-project livelihoods are indeed improved upon;
- e) PAPs and RPFs should be given sufficient technical and financial assistance to make use of the grievance mechanisms of the project where required;
- f) Decisions concerning them should be made in the shortest possible time.

66) The RPF envisaged in the ECAATP offers numerous inherent opportunities and benefits for the intended target groups – especially women and youth who would be involved in the small-holder farmers and pastoral subsystem activities.

#### **2.4.2 Eligibility Criteria for Various Categories of Affected People**

67) This section outlines eligibility criteria, which is necessary to determine who will be eligible for resettlement and benefits, and to discourage inflow of ineligible people.

##### **a) Principles**

68) In line with the World Bank safeguard policy OP 4.12, the ECAATP will therefore, minimize displacement through the following design procedures:

- i. Wherever inhabited dwellings may potentially be affected by a component of a sub-project, the sub-project shall be redesigned (facility relocated or rerouted) to avoid any impact on such dwellings and to avoid displacement/relocation accordingly;
- ii. Wherever the impact on the land holding of one particular household is such that the household may not be sustainable in the long term, even if physical displacement of such a household is not feasible, the sub-project shall be redesigned (facility relocated or rerouted) to avoid any such impact;
- iii. Minimization of land impact will be factored into site, practice and technology selection and design criteria;
- iv. Costs associated with displacement, restoration of livelihoods and resettlement (if any) will be internalized into sub-project costs to allow for fair comparison of processes and sites;
- v. To the extent possible, sub project facilities will be located on public spaces; a more participatory approach will be put in place for the communities to confirm where to site these facilities with express authority of the local county administration.
- vi. Infrastructures required by the sub project will be routed inside existing right-of-ways, easements or reservations (roads, streets, power lines, drainage canals) wherever possible.
- vii. The presence of the VMGs within the project area even when they do not have any of the above

69) The involuntary taking of land results in: relocation or loss of shelter; and loss of assets or access to assets or loss of income sources or means of livelihood, whether or not the PAPs must move to another location or not. Therefore, meaningful consultations with the affected persons (directly and through representatives), local authorities and communal leadership allows for establishment of the criteria by which displaced persons will be deemed eligible for compensation and other resettlement assistance. Involuntary and Resettlement Policy (OP/BP4.12) suggests the following three criteria for eligibility;

- a) those who have formal rights to land (including customary/communal land, traditional and religious rights, recognized under Kenyan Law);
- b) those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets provided that such claims are recognized under the national and local laws of Kenya or become recognized through a process identified in the resettlement plan;

c) those who have no recognizable legal right or claim to the land they are occupying, using or getting their livelihood from, but are recognized under the World Bank's Involuntary and Resettlement Policy (OP/BP 4.12).

70) Those covered under (a) and (b) above are to be provided compensation for the land they lose, and other assistance in accordance with this RPF. Persons covered under c) above are to be provided with resettlement assistance in lieu of compensation for the land they occupy, and other assistance, as necessary, to achieve the objectives set out in this RPF, if they occupy the project area prior to a cut-off date established by the management committees in close consultation with the potential PAPs, local community leaders and the respective local Land Control Boards and the Operational Policy acceptable to the World Bank. Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance. All persons included in (a), (b) or (c) above are to be provided with compensation for loss of assets other than land. Therefore, it is clear that all project affected persons irrespective of their status or whether they have formal titles, legal rights or not, squatters or otherwise encroaching illegally on land, are eligible for some kind of assistance if they occupied the land before the entitlement cut-off date. Persons who encroach the area after the socio-economic study (census and valuation) are not eligible for compensation or any form of resettlement assistance (GoK, 2003).

#### **b) Eligibility Process**

71) PAPs may be classified in one of the three groups listed in Section 3.8. The process will involve review of tenure documents owned by occupants, interviews with households and groups in the affected area. County governments and national government's Ministry of Land concerned with land ownership and management will also hold the consultant. PAPs covered in a) and b) are provided compensation for the land they lose, and other assistance ensuring that they are: Informed about their options and rights pertaining to resettlement; Consulted on, or offered choices among, and provided with technically and economically feasible resettlement; Provided prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project (GoK, 2014).

72) Land for land compensation will be applied to PAPs who might lose their land. All PAPs irrespective of their status or whether they have formal titles, legal rights or not, squatters or otherwise encroaching illegally on land, are eligible for some assistance if they occupied the land before the entitlement cut-off date. Persons who encroach on the area after the socio-economic study (census and valuation survey form refer to annex 4) are not eligible for compensation or any form of resettlement assistance. There will therefore be a package of compensation and other resettlement measures to assist each category of eligible PAPs to achieve the objectives of the



policy. Eligibility criteria will also be determined by: i. Loss of property ii. Loss of wages iii. Cut-off date.

### **c) Eligibility for Community Compensation**

73) It is also important to note that the eligibility may be claimed collectively e.g. as a community or religious group and does not necessarily have to be individuals or families. Communities (on communal lands) that permanently lose land and/or access to assets and or resources under statutory or customary rights will be eligible for compensation. Example of community compensation could be for public toilets, cattle crutches/dips, weather stations, cottage/market places, off farm research demonstrations, community water pans. The rationale for this is to ensure that the pre-project socio-economic status of communities where adversely impacted, is also restored (WB, 2008).

74) Eligibility criteria will also be determined by the status of development up to when the study starts and will further be determined by other development approvals as issued by both national and county government offices. The key local authorities to be interviewed by both national and county the consultants will include County, sub county and ward government officials such as the County/ ward agricultural officer, the County officers, chiefs and sub-chiefs. Other PAPs include: identified large and small-scale farmers, businessmen and businesswomen, women leaders and other leaders of social groups.

75) Cutoff date - The client is not required to compensate or assist those who encroach on the project area after the cut-off date for eligibility, provided the cut-off date has been clearly established, defined and made public. In the case of physically displaced persons, the client will offer them a choice of options for adequate housing with security of tenure so that they can resettle legally without having to face the risk of forced eviction. Where these displaced persons own and occupy structures, the client will compensate them for the loss of assets other than land, such as dwellings and other improvements to the land, at full replacement cost, provided that these persons have been occupying the project area prior to the cut-off date for eligibility. Based on consultation with such displaced persons, the client will provide relocation assistance sufficient for them to restore their standard of living at an adequate alternative site.

## **2.5 ECAATP RPF Opportunity to PAPs**

76) The ECAATP RPF will provide the PAPs the opportunity to participate equally in decision making in well-organized governance and management systems in matters that impact on their well-being; acquire access to land of economic size that would make them more productive; enhance their operational capacity through skill and innovative transfer acquisition of TIMPs; access to improved agriculture inputs i.e. seeds, fertilizers, implements, extension

services; agro-weather and market information, access to adequate and improved economic and social infrastructural facilities namely farm to market roads, electricity, irrigation, portable water, storage; access to credit facilities; access to enlarged and ready markets; form stronger and mutually beneficial social groups; generation of employment; and creation of more income, wealth and savings through diversified activities.

77) **Adverse Effects:** If gender is not mainstreamed in all the different aspects of the Project, the target groups, especially women, are most likely to suffer the under listed adverse effects: insecurity in land acquisition and tenure; inability to expand their farms; continued operation at subsistence level using old and unproductive tools and farming practices; loss of farms without adequate compensation; loss of livelihood for entire families; resettlement without due regard to the welfare of the target groups; restricted access to improved economic and social infrastructural facilities; limited ability and capacity to diversify their operations; depressed employment opportunities especially for the youth; non motivation to form associations to improve their wellbeing; Increase gender disparities among men and women; and exposure to greater economic disparities resulting in worsening of poverty among the target groups.

## **2.6 Approximate Numbers of PAPs**

78) **No involuntary resettlement is anticipated under ECAAT Project.** These investments will largely be Institutional based with on – centre and off – centre trials and demonstrations. There may be no resettlement impacts related to investments at the institutional level. The individual Sub-projects under ECAAT will be identified during project implementation by the centers of Leadership in a participatory process. Due to this, the locations, nature and magnitude of these Sub-projects cannot be determined before implementation. For each Sub-project, which might require physical and/or economic resettlement (this will be assessed through screening processes), the number of PAPs will be established through a RAP, which will be elaborated before project implementation.

79) For each Sub-project that is considered during screening to require physical and/or economic resettlement, the number of PAPs will be established through a RAP, which will be elaborated before the Sub-project is approved for inclusion in the work program of the project.

## **2.7 Potential Relocation Areas**

80) The location for resettlement will be identified during the development of individual Sub-Project RAPs, which will involve consultation with relevant authorities, VMGs and the PAPs involved. If people must move to another location due to the implementation of a Sub-project, the project will:

- a) Offer displaced persons choices among feasible resettlement options, including adequate replacement housing or cash compensation where appropriate (if applicable); and
- b) Provide relocation assistance suited to the needs of each group of displaced persons, with particular attention paid to the needs of the poor and the vulnerable. Alternative housing and / or cash compensation will be made available prior to relocation
- c) In the case of physically displaced persons with recognized or recognizable rights, the project will offer the choice of replacement of property of equal or higher value, equivalent or better characteristics and advantages of location, or cash compensation at full replacement value.
- d) In the case of physically displaced persons without recognizable rights, the projects will compensate them for loss of assets and structures at current market replacement costs plus compensation for loss of stream of income and costs of relocation. It should be noted again that the project anticipates none or minimal physical resettlement and bulk of impacts will be economic displacement at a small scale.
- e) Where these 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, provided that these people have occupied the project area prior to a disclosed and agreed cut-off date. Compensation in kind will be offered in lieu of cash compensation where feasible. Based on consultation with such displaced persons, the client will provide relocation assistance sufficient for them to restore their standards of living at an adequate alternative site.

81) **Economic Displacement:** If land acquisition for a Sub-project causes loss of income or livelihood, regardless of whether or not the affected people are physically displaced, the projects will meet the following requirements: i) promptly compensate economically displaced persons for loss of assets or access to assets at full replacement cost; ii) In cases where land acquisition affects 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 costs of the transfer and reinstallation of the plant, machinery or other equipment; iii) Provide replacement property (e.g., agricultural or commercial sites) of equal or greater value, or cash compensation at full replacement cost where appropriate, to persons with legal rights or claims to land which are recognized or recognizable; iv) Compensate economically displaced persons who are without legally recognizable claims to land for lost assets (such as crops, livestock, irrigation infrastructure and other improvements made to the land) other than land, at full replacement cost; v) 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; vi) 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. Compensations and entitlements are detailed in **Table 6 below**.

**Table 6: Matrices on Asset Acquired and Compensation Entitlement**

| ASSET ACQUIRED           | TYPE OF IMPACT  | ENTITLED PERSON      | COMPENSATION ENTITLEMENT   |
|--------------------------|---|----------------------|--|
| <b>AGRICULTURAL LAND</b> | No displacement. Cash compensation for affected land equivalent to market value<br>Less than 20% a fraction of the land holding affected. | Farmer /title holder | Cash compensation for affected land equivalent to market value   |
|                          |   | Tenant/lease holder  | Cash compensation for the harvest of the affected land equivalent to average market value of the last 3 years OR market value of the crop for the remaining period of tenancy/lease agreement whichever is greater   |
|                          | <b>Displacement:</b> less than 20% of the fraction of land holding lost economically viable   | Farmer /title holder | Land for land replacement where feasible or compensation in cash for the entire land holding according to PAPs choice. Land for land replacement will be in terms of a new parcel of equivalent size and productivity with a secure 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<br>Relocation assistance (cost of shifting + assistance in re-establishing economic trees + allowances up to a maximum of 12 months while short term crops mature) |
|                          |   | Tenant /lease holder | Cash compensation equivalent to average of the last 3 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<br>Relocation assistance (costs of shifting + allowance).  |
|                          |   | Agricultural         | Cash compensation equivalent to local average of 6 months'   |

|                        |  |                                 |   |
|------------------------|--|---------------------------------|---|
|                        |  | worker                          | salary<br>Relocation assistance (Costs of shifting + allowance)<br>Assistance in getting alternative employment   |
| <b>COMMERCIAL LAND</b> | <b>No displacement:</b><br>Land used for business partially affected, limited loss                                     | Title holder/Business owner     | Cash compensation for affected land<br>Opportunity cost compensation equivalent to 5% of net annual income based on tax records for previous year (OR tax records from comparable business, OR estimate where such records do not exist).   |
|                        |  | Business owner is lease holder  | Opportunity cost compensation equivalent to 10% of net annual income based on tax records for previous year (all tax records from comparable business or estimates where such records do not exist).  |
|                        | <b>Displacement:</b><br><br>Premise used for business severely affected, remaining area insufficient for continued use | Title holder/Business owner     | Land for land replacement or compensation in cash according to PAPs choice. Land for land replacement will be provided in terms of 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.<br>Transfer of the land to the PAP shall be free of taxes, registration and other costs.<br>Relocation assistance (cost of shifting + allowance)<br>Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (OR tax records from comparable business or estimates) |
|                        |  | Business person is lease holder | Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (OR tax records from comparable business or estimates) OR relocation allowance whichever is higher.<br>Relocation assistance (Cost of shifting)<br>Assistance in rental/lease of alternative land/property (for a  |

|                                |   |                     |  |
|--------------------------------|---|---------------------|--|
|                                |   |                     | maximum of 6 months) to re-establish the business.   |
| <b>RESIDENTIAL LAND</b>        | <b>No displacement:</b><br>Land used for residence partially affected, limited loss, and the remaining land remains viable for present use  | Title holder        | Cash compensation for affected land  |
|                                |   | Rental/Lease holder | Cash compensation equivalent to 10% of lease/rental fee for the remaining period of rental/lease agreement (written or verbal)   |
|                                |   | Title holder        | Land for land replacement or compensation in cash according to PAPs choice. Land for land replacement shall be of 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 relocated plot, cash compensation to cover the difference in value. Transfer of the land to the PAP shall be free of taxes, registration and other costs.<br>Relocation assistance (cost of shifting + allowance |
|                                | <b>Displacement:</b><br>Premise used for residence severely affected, remaining area insufficient for continued use or becomes smaller than minimally accepted under zoning law/s | Rental/Lease holder | Refund of any lease/rental lease paid for time/use after date of removal<br><br>Cash compensation equivalent to 3 months of lease/rental fee<br>Assistance in rental/lease of alternative land/property<br><br>Relocation assistance (cost of shifting + allowance)  |
| <b>BUILDING AND STRUCTURES</b> | <b>No Displacement:</b><br>Structure partially affected but the   | Owner               | Cash compensation for affected building and other fixed assets   |

|  |   |                             |   |
|--|---|-----------------------------|---|
|  | remaining structure remains viable for continued use  |                             | Cash assistance to cover cost of restoration of the remaining structure   |
|  |   | Rental/Lease holder         | Cash compensation for affected assets (verifiable improvements to the property by the tenant e.g. a fence)<br>Disturbance compensation equivalent to 2 months rental cost   |
|  | <b>Displacement:</b><br>Entire structure affected<br>OR<br>Structure partially affected but the remaining structure is not suitable for continued use | Owner                       | Cash compensation for entire structure and other fixed assets without depreciation, or alternative structure of equal or better size and quality in an available location which is acceptable to the PAP.<br>Right to salvage materials without deduction from compensation<br>Relocation assistance (cost of shifting + allowance)<br>Rehabilitation assistance if required (assistance with job placement, skills training) |
|  |   | Rental/Lease holder         | Cash compensation for affected assets (verifiable improvement to the property by the tenant e.g. a fence)<br>Relocation assistance (cost of shifting + allowance equivalent to 4 months rental cost)<br>Assistance to help find alternative rental arrangements<br>Rehabilitation assistance if required ( assistance with job placement, skills training)  |
|  |   | Squatters/Informal dwellers | Cash compensation for affected structure without depreciation<br>Right to salvage materials without deductions from compensation<br>Relocation assistance (Cost of shifting + assistance to find alternative secure accommodation preferably in the community of residence through involvement of the project CBO.  |



|                          |   |   |   |
|--------------------------|---|---|---|
|                          |   |   | Alternatively assistance to find accommodation in rental housing or in a squatter settlement scheme if available)<br>Rehabilitation assistance if required (Assistance with job placement, skill training)  |
|                          |   | Street vendor (Informal without Title or Lease to the store or shop)  | Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (OR tax records from comparable business or estimates), or the relocation allowance, whichever is higher<br>Relocation assistance (Cost of shifting)<br>Assistance to obtain alternative site to re-establish the business |
| <b>STANDING CROPS</b>    | Crops affected by land acquisition or temporary acquisition or easement | PAP (Whether owner, tenant, or squatter)  | Cash compensation equivalent to average of the last 3 years market value for the mature and harvested crop  |
| <b>TREES</b>             | Trees lost  | Title holder  | Cash compensation based on type, age, and productive value of affected trees PLUS 10% premium   |
| <b>TREES ACQUISITION</b> | TREES acquisition   | PAP (Whether owner, tenant, or squatter – this is where the minority communities fall under as reflected in | Cash compensation for any assets affected (e.g. boundary wall demolished, trees removed)  |

|  |  |          |  |
|--|--|----------|--|
|  |  | annex 12 |  |
|--|--|----------|--|

### 3.0 RELEVANT LEGAL, REGULATORY AND INSTITUTIONAL FRAMEWORK

#### 3.1 Relevant National Legislative Framework

82) The section sets out the legal framework, the fit between the laws and regulations of Kenya and World Bank policy requirements, and proposed measures to bridge the gaps between them. In Kenya expropriation is provided for in the Constitution under section 75 for private land and sections 117 and 118 for unregistered Trust Land. But the constitution only gives general guidelines. The detailed procedures for land acquisition are elaborated under the “Land acquisition Act” in chapter 295 for private land and chapter 288 for unregistered Trust Lands. “Trust Land” refers to that land that is still held under African customary tenure. The title to this land is said to vest in the County Council in trust for its inhabitants, hence the term “Trust”.

83) Expropriation in this context refers to the taking away of private land and landed property for public purpose by the government with or without the owner’s consent subject to laws of eminent domain, which stipulates prompt and adequate compensation among other things. In Kenya “setting apart” for unregistered Trust Land and “Compulsory acquisition” for all registered private lands are the terms commonly in use.

84) Expropriation of land is an important aspect of land management in Kenya since it is a key instrument by which land is made available for various development needs that are deemed to promote public benefit, e.g. infrastructure, housing, dams and irrigation, or certain industrial purposes.

#### 3.2 Procedures under Chapter 295 of the “Land Acquisition Act”

85) In short, a formal request for expropriation should be submitted to the “Commissioner of Lands” by the benefiting authority, e.g. a municipal council in the case of urban areas. Any other public body or Government may request land acquisition in this way. The Commissioner will then forward the application to the Minister in charge of lands. If the minister is convinced that the land is required for public purpose, he writes to the commissioner to that effect, and directs him to acquire the land (Section 6(1)). The Commissioner Will then give “Notice of Intention” to acquire the land (Section 6(2)) in the “Kenya Gazette” side by side with the “Notice of Inquiry”.

86) The “Notice of Intention” must mention the public body or the public purpose for which the land is to be acquired. The “Notice of Inquiry” mentions places and fixed dates when persons interested in the subject land are to submit their claims to the Commissioner of Lands or his appointee (a “Valuation Officer” also known as “Collector of compensation”) according to Section 9.

87) Meanwhile the Collector of Compensation is supposed to inspect the said land and value it for compensation. After the inquiry the Collector will issue an award depending on his own assessment and the representations of interested parties as submitted at the inquiry (Section 10 and 11). The award is issued in a prescribed form, together with a statement form. The former indicates the amount of compensation awarded, while the latter gives the landowners option of acceptance or rejection of the award. If the landowner accepts the award, the collector will issue a cheque in settlement together with a formal “Notice of Taking Possession and Vesting” (section 19). The notice instructs the landowner to take his title for amendment or cancellation. It is copied to the Government surveyor and the land registrar to make the necessary changes to the affected deed. If the owner rejects the award, the collector deposits the money in court pending the former’s appeal. Compensation is based on the open market value.

### **3.3 Procedures under Chapter 288 of the “Trust Lands Act”**

88) “Setting apart” carried out at the instance of the state involves a procedure whereby the President will write to the county government in charge of the said Trust Land informing the Council that the land is required for public purpose by a public body. The Council is supposed to deliberate the matter at a full council meeting and give consent. The “County Commissioner” in charge of the affected area will then proceed to ascertain interests, determine areas and assess compensation for the land after which he is to issue an award. In case of acquisition at the instance of the County government itself, the whole process is repeated except that this time the President is not involved in giving directions. It starts with a full council meeting. Other legislation concerning resettlement is described in Table 6.

**Table 7: Kenya Legislation on Resettlement**

| <b>Legal Framework</b>                              | <b>Functional relationship to Resettlement</b>   |
|---|--|
| The Land Acquisition Act Chapter 295 Laws of Kenya  | Provides for the acquisition of land for public benefit. The government has powers under the act to acquire land for projects, which are intended to benefit the general public. The sub-projects requiring resettlement are under the provision of this Act |
| The Registration Land Act Chapter 300 Laws of Kenya | Provides for the absolute proprietorship over land (exclusive rights). Such lands can be acquired by the state under the Land Acquisition Act in the project area  |
| The Land Adjudication Act Chapter 95 Laws of Kenya  | Provides for ascertainment of interests prior to land registrations under the Registered Land Act  |
| Physical Planning Act No. 6 of 1996                 | Section 2 of the Act requires that all land intended for any development requires a planning and development permission. Section 36 of the Act also requires that development projects, which have substantial alteration of                                 |

| Legal Framework                                       | Functional relationship to Resettlement  |
|---|--|
|   | state of land, must be subjected to an EIA   |
| The Local Government Act Chapter 265 Laws of Kenya    | Provides to making by-laws and institutions by the Councils. By-laws can be made on the governance of a project under the provisions of this Act   |
| The Traffic Act Chapter 403 Laws of Kenya             | The Act also prohibits encroachment on and damage to roads including land reserved for roads by and project or any human settlement or by an exercise of resettlement. The project is under the provision of the Act   |
| The wayleaves Act Chapter 292 Laws of Kenya           | Provides for certain undertaking to be constructed e.g. pipelines, canals, pathways etc, through or under any land or settlement. The project is under the provision of the Act  |
| The Water Act Chapter 372 Laws of Kenya               | The Act vest the water in the state and gives the provisions for the water management, including irrigation water, pollution, drainage, flood control, and abstraction. It is the main legislation governing the use of water especially through water permit system where special provision of water may be made for settlement or resettlement |
| The Lakes and River Act Chapter 409 Laws of Kenya     | This Act provide for the protection of river, lakes and associated flora and fauna. The provision of this Act may be applied, in the management of the resettlement zones in this project  |
| The Wildlife Conservation and Management Act, Cap 376 | This Act provide for the protection, conservation and management of wildlife in Kenya. The provision of this Act should be applied in the management of the project  |
| The Public Health Act Laws of Kenya                   | Provides for the securing of public health and recognizes the importance of water. It provides for prevention of water pollution by any development activity including resettlement by stakeholders  |

### 3.4 Comparison between WB Involuntary Resettlement Policy OP/BP 4.12 and Kenya Legal Requirements

89) The laws of Kenya only provide compensation for land that is legally owned by PAPs and no compensation to encroachers for the same. The World Bank OP 4.12 provides for compensation for land to both legal owners and persons deriving livelihoods from use of such land. OP4.12 states that where there is a conflict between the Bank and government frameworks, those of the Bank shall take precedence. A further comparison between the Laws of Kenya and

the World Bank Involuntary and Resettlement Policy (OP/BP 4.12) are contained in Table 7 below.

**Table 8: Comparison between Kenyan Law and World Bank Involuntary and Resettlement Policy (OP/BP 4.12) - regarding Compensation**

| <b>Category of PAPs/Type of Lost Assets</b> | <b>Kenyan Law</b>  | <b>World Bank Involuntary and Resettlement Policy (OP/BP 4.12)</b>   | <b>Proposed mitigation measures</b>  |
|---|--|--|--|
| Land Owners                                 | Cash compensation based upon market value. Under statute. Land for Land under Customary Law  | Recommend land-for-land compensation. Other compensation is at replacement cost  | PAPs consultation towards preference for land-for-land and cash as the last option |
| Land Tenants                                | Entitled to compensation based upon the amount of rights they hold upon land under relevant laws   | Are entitled to some form of compensation whatever the legal recognition of their occupancy                                      | OP/BP 4.12 takes precedence here   |
| Land Users                                  | In some cases, land users have some form of secure tenure extended to them under law regarding easement rights where if a person uses land for 7 consecutive years without a dispute entitles him to a right equivalent to ownership. In other cases, land users not entitled to compensation for land, entitled to compensation for crops and other economic assets | Entitled to compensation for crops, may be entitle to replacement land and income must be restored to pre-project level at least | OP/BP 4.12 takes precedence here   |

| <b>Category of PAPs/Type of Lost Assets</b> | <b>Kenyan Law</b>  | <b>World Bank Involuntary Resettlement Policy (OP/BP 4.12)</b>  | <b>Proposed mitigation measures</b> |
|---|--|---|-------------------------------------|
| Owners of “Non-permanent” Buildings         | Cash compensation based on market value or entitled to new housing on authorized land under government (state or local) housing programs | Entitled to in-kind compensation or cash compensation at full replacement cost including the labor and relocation expense, prior to displacement                  | OP/BP 4.12 takes precedence here    |
| Owners of “Permanent” buildings             | Cash compensation is based on market value   | Entitled to in kind compensation or cash compensation at full replacement cost without depreciation including labor and relocation expense, prior to displacement | OP/BP 4.12 takes precedence here    |
| Perennial Crops                             | Cash compensation based upon market rates calculated as an average net market income   | As per section G of this RPF once approved by the Bank and disclosed in Kenya and at the Bank external website  | OP/BP 4.12 takes precedence here    |

**90)** From the point of view of the process of land acquisition and compensation, it is clear that the procedures described in Sections 4.2 and 4.3 above are likely to be significantly more time consuming and onerous than would be practicable in the event that resettlement issues arise in a significant number of Sub-projects. It will therefore be necessary to streamline the compensation review process under Kenyan law to ensure that approved timelines are consistent with those required by the Bank for timely Sub-project approval and implementation. It is therefore a priority that the NPCU develops and liaises with a certified land valuer and the National Land Commission on valuation and compensation procedures that allows the delegation of authority and decision making to the beneficiaries. In case of conflict between national legislation and WB Involuntary Resettlement Policy, guidance will be sought from the OP/BP 4.12

## **4.0 COMPENSATION FOR LAND AND OTHER ASSETS**

### **4.1 Methods of Valuing Affected Assets**

91) This section sets out the detailed requirements for determining the value of affected assets. Due to the large number and the localized nature of the majority of Sub-project interventions, it is anticipated that a relatively large number of small-scale asset valuations will need to be carried out during the course of the project. It would therefore be unwise and inefficient to deploy an individual valuation expert in each and every case.

92) It is, therefore, proposed that a valuation expert is contracted by ECAATP at the project outset to develop a standardized procedure for asset valuation, which can then be applied by a project representative at the community, ward and/or county level. This standardized procedure would include a series of ‘look-up’ tables for estimating asset value by type according to the approximate size and condition of the existing asset. The tables would necessarily be developed using legally acceptable valuation procedures accepted by both the Government of Kenya and World Bank for purposes of fairness and consistency. The approach will consider replacement costs and types and levels of compensation under the Kenya law, and valuation of lost assets will be made at their replacement cost. The calculation methods to be adopted for the different types of assets are discussed below.

### **4.2 Preparation of Asset Inventory**

93) In order to prepare an inventory of assets for a Sub-project, a field team would visit the affected area to carry out an asset valuation survey. The team would be led by an appropriate project representative, and would include the Local Chief, a representative of the PAPs, a representative of the National Land Commission (NLC) and a village representative (collectively referred to as the Compensation Committee).

94) During the survey, each asset will be enumerated and inscribed on 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 shown to the affected person for agreement. The register will be signed and a copy given on the spot to the affected person. Personal data will be taken such as names, national ID number, a photograph of the person and of the asset affected as well as its GIS location. The document indicates when the affected person will be notified, and that the inventory will not be official until a second signed copy is verified by project supervisory staff and returned 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. An example of a land asset and physical inventory census survey form is provided in **Annex 3**.

### **4.3 Methods of Compensation**



95) Individual and household compensation will be made in cash, in kind, and/or through assistance. The type of compensation will be determined by the compensation committee. The below table describes the forms of compensation.

#### **Forms of Compensation**

|                      |   |
|----------------------|---|
| Cash Payments        | Compensation will be calculated in Kenya Shillings. Rates will be adjusted for inflation <sup>5</sup> .                     |
| In-kind Compensation | Compensation may include items such as land, houses, other buildings, building materials, seedlings,                        |
| Assistance           | Assistance may include moving allowance, agricultural inputs and financial credits for equipment, transportation and labour |

96) For the majority of small-scale Sub-projects, the asset valuation would be led by the ward (or county) project representative e.g. using the standardized approach described in the previous section. For larger projects that are judged (under the ESMF process) to have significant impacts the process may require a Resettlement Expert.

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

### **4.4 Valuation Methods to Be Adopted<sup>6</sup>**

#### **4.4.1 Replacement Cost Approach**

98) The replacement cost approach is based on the premise that the costs of replacing productive assets is based on damages caused by project operations. These costs are taken as a minimum estimate of the value of measures that will reduce the damage or improve on on-site management practices and thereby prevent damage. The approach involves direct replacement of

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<sup>5</sup>This will be guided by the RAP

<sup>6</sup>Valuation methods are not limited to the explained ones in this document.

expropriated assets and covers an amount that is sufficient for asset replacement, moving expenses and other transaction costs.

#### **4.4.2 Gross Current Replacement Cost**

99) Gross Current Replacement Cost (GCRC) is defined as the estimated cost of erecting a new building having the same gross external as that of the existing one, with the same site works and services and on a similar piece of land.

#### **4.4.3 Other methods**

100) Rates from Contractors - When rate schedules do not exist or are out of date, recent quotations by contractors for similar types of construction in the vicinity of the project can be used for calculating replacement costs. In projects offering the options of cash compensation or alternative accommodation, the construction cost estimates for alternative accommodation could be used for calculating cash compensation payable.

101) Schedule of rates from Ministry of Roads and Public Services and Ministry of Lands- the State Department of Materials has a schedule of rates for preparing estimates for construction of projects, which the consultant can use to assess costs for construction materials and labour. When applied to calculation of replacement cost (see above), the current rates from contractors for the period of actual replacement must be used.

102) Calculation of Compensation by Asset - The following methods of calculation should be adopted for the preparation of the aforementioned standardized asset valuation tables and/or the application of specific case-by-case valuations in the case of projects that have significant impacts:

### **4.5 Compensation for Land**

103) Compensation for land is aimed at providing a smallholder farmer whose land is acquired and used for project purposes with compensation for land, labour, livestock and crop loss. For this reason and for transparency, “Land” is defined as an area or homestead:

- a) In cultivation
- b) Being prepared for cultivation, or
- c) Cultivated during the last agricultural season.

104) This definition recognizes that the biggest investment smallholder farmer makes in producing a crop or keep livestock is his or her labour. A smallholder farmer works on his/her

land most of the months of the year. The major input for producing a crop is not seed or fertilizer, but the significant labour put into the land each year by the smallholder farmer. 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.

#### **4.6 Land Measurement**

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

#### **4.7 Calculation of Crops Compensation Rate**

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

#### **4.8 Compensation for Livestock**

107) Compensation will be ideal from two points of view: the market value of the category of animal by age and region; and two the valuation guidelines normally advised by the Ministry of Agriculture Livestock and Fisheries; or in case of game by the Kenya Wildlife Services (KWS).

#### **4.9 Compensation for Buildings and Structures**

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

109) Compensation will be made for structures that are: abandoned because of relocation or resettlement of an individual or household, or directly damaged by Sub-project activities.

110) Replacement values will be based on: drawings of individual's house and all its related structures and support services; average replacement costs of different types of household buildings and structures based on collection of information on the numbers and types of materials used to construct different types of structures (e.g. bricks, rafters, bundles of straw, doors etc.); prices of these items collected in different local markets; costs for transportation and delivery of these items to acquired/replacement land or building site; and estimates of construction of new buildings including labour required.

#### **4.10 Compensation for Community Assets**

111) Compensation will be provided for community assets identified through the socio-economic survey. In all cases, these will be provided in-kind and new facilities will be provided for even if there are existing facilities at the new location.

##### **4.10.1 Compensation for Sacred Sites**

112) This policy does not permit the use of land that is defined to be cultural property by the Bank's Safeguards OP 4.11. Sacred sites include but not restricted only to; altars, initiation centres, ritual sites, tombs and cemeteries. It includes other such sites or places/features that are accepted by county laws (including customary), practice, tradition and culture as sacred. To

avoid any possible conflicts between individuals and/or communities/homesteads/county governments' the use of sacred sites for any project activity is not permitted under this project.

#### **4.10.2 Compensation for Vegetable Gardens and Beehives**

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

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

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

115) Kenya has variable weather patterns, but suitable for growing of fruits especially in the Western and Central parts of Kenya where the ECAATP micro-projects will be implemented. Where fruits exist on affected land e.g. Mangos, which is one of the common fruit trees in the project areas; the agriculture valuation method must be adopted. This goes for all other tree-based crops including other trees of nutritional, medicinal and other significant economic value. Given their significance to the local subsistence economy, which this project intends to positively impact, fruit trees will be compensated on a combined replacement/market value. Fruit trees used for commercial purposes will be compensated at market value based on historical production records. If households chose to resettle, they will be compensated for the labour invested in the trees they leave behind, because they will continue to own the trees left behind under customary rights. It is not uncommon for individuals to own trees in other villages in which they formally lived and, in some cases, to continue to harvest fruit from those trees for subsistence purposes and/or sale to traders. If a household/individual chooses to transfer ownership of the trees, transfer costs will be paid in addition to labour costs. The compensation rate will be based on information obtained from the socio-economic information.

## **5.0 INSTITUTIONAL FRAMEWORK & IMPLEMENTATION SCHEDULE AND COSTS**

### **5.1 Introduction**

116) Before any project activity is implemented, PAPs will need to be compensated in accordance with the resettlement policy framework and applicable RAP. For activities involving land acquisition or loss, denial or restriction to access, it is further required that these measures include provision of compensation and of other assistance required for relocation, prior to displacement, and preparation and provision of resettlement sites with adequate facilities, where required. In particular, the taking of land and related assets may take place only after compensation has been paid and, where applicable, resettlement sites and moving allowances have been provided to displaced persons. For project activities requiring relocation or loss of shelter, the policy further requires that measures to assist the displaced persons are implemented in accordance with the individual RAPs.

117) The measures to ensure compliance with this RPF would be included in the RAPs that would be prepared for each land involving resettlement or compensation. The schedule for the implementation of activities must be agreed upon between the Resettlement Committee and the PAPs, such as target dates for start and completion of civil works, timetables for transfers of completed civil works to PAPs, dates of possession of land that PAPs are using (this date must be after transfer date for completed civil works to PAPs and payments of all compensation), and how these activities are linked to the implementation of the overall Sub-project.

118) The screening process must ensure that RAPs contain acceptable measures that link resettlement activity to civil works in compliance with this policy. The timing mechanism of these measures would ensure that no individual or affected household would be displaced (economically or physically) due to civil works activity before compensation is paid and resettlement sites with adequate facilities are prepared and provided for to the individual or homestead affected. Once the RAP is approved by the county and national authorities, the RAP should be sent to the World Bank for final review, clearance and approval.

### **5.2 Project Launch**

119) At each Sub-project launch, an assessment of the social impacts of each Sub-project will be conducted. Emphasis will be given to avoid or reject any Sub-projects presumed to induce extensive adverse social impacts. The assessment will help to: (a) determine which sub-project should be rejected; (b) any mitigation measures to be taken for those with small to medium adverse effects which are reversible; (c) establish whether or not detailed RAPs with timetables and budgets should be prepared.

120) Terms of reference (TOR<sup>7</sup>) for the assessments will be drafted by the implementing agencies in consultation with the World Bank. Issues to be addressed by the screening process will include: demography, land tenure and socio-economic structures (for larger Sub-projects involving more than 100 households, as needed); and consultations with county governments and with the PAPs (for all Sub-projects). A key task to be conducted under this process is a household survey describing the extent of the social impacts. At this stage, all PAPs will be listed in order to avoid an influx of people trying to take advantage of the compensation and rehabilitation. A cut-off date is proclaimed. That means, a date from which eligibility for compensation will be terminated. New inhabitants coming to the project affected areas will not be considered for compensation. The principles of compensation/rehabilitation will be triggered wherever there will be land acquisition and adverse social impacts.

### **5.3 Implementation Schedule**

121) The timing of the resettlement will be coordinated with the implementation of the main investment component of the project requiring resettlement. All RAPs will include an implementation schedule for each activity covering initial baseline and preparation, actual relocation, and post relocation of economic and social activities. The plan should include a target date when the expected benefits for resettlers and hosts would be achieved. Arrangements for monitoring implementation of resettlement and evaluating its impact will be developed during project preparation and used during supervision. Monitoring provides both a warning system for project managers and a channel for the resettlers to make known their needs and their reactions to resettlement execution.

122) Environmental and social impact assessments, (if deemed necessary) through the application of the ESMF, will be conducted parallel with the design of the Sub-projects, and will determine the number of PAPs and to assess demand of needs of the displaced persons. The needs are such as housing, water, health facilities and sanitation. Target dates for achievement of expected benefits to resettled persons and hosts are to be set.

123) Disseminating various forms of assistance to them will be done. Planning and coordination of the tasks of the various actors is key to successful implementation. To achieve this goal, workshops will be organized with the stakeholders and other relevant government agencies, at project launch and at the commencement of every Sub-project identified to have adverse social impacts.

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<sup>7</sup>Annexed Sample ToR for both SA and RAP

124) 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. PAPs will also be consulted with the aim of obtaining their positions on issues at stake. The requirements of their work/programs/business activities will be incorporated in the expropriation/compensatory plans.

125) The workshops will focus on: taking stock of the legal framework for compensation; settling institutional arrangements and mechanisms for payment of compensation; defining tasks and responsibilities of each stakeholder; and establishing a work plan.

126) A monthly implementation schedule of activities is to be undertaken and will be a topic of discussion at the next workshop. This way, they will be able to feed back on the implementation process, any curative measures or improvements. The project staff /county governments/government team will conduct this under the leadership of a resettlement expert.

#### **5.4 PAPs Representative Committee<sup>8</sup>**

127) PAPs Representative Committee shall carry out the following in regard to redressing grievances:

- a) Hear the grievances of the PAPs, and provide an early solution/recommendation;
- b) Immediately bring any serious matters to the attention of the GRC
- c) Inform the aggrieved parties about the progress of their grievances and the decisions of the IAs and Resettlement Committee.

128) A Grievance Redress Committee<sup>9</sup> will be constituted to register the grievance raised by the PAPs and address the grievance forwarded by the PAPs representative committee. The Grievance Redress Committee will try as much as possible to arrive at a compromise for the complaints raised. This may be obtained through a series of conciliations, mediations and negotiations exercises conducted with the PAPs. If PAPs accept the recommendations made by the committee, the committee along with PAPs who are willing to take part in these proceedings may hold mediations at the appointed places. In situations where PAPs are not satisfied with the decision of Grievance Redress committee, the PAPs can approach the court of law. The response time for cases handled in both committees will depend on the issues addressed but it should be as short as it is possible.

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<sup>8</sup>The establishment, role and responsibilities will be detailed in the project operational manual

<sup>9</sup>Similarly, this will be expanded in the project operational manual



## 5.5 RPF Implementation Budget

129) Resettlement activities.in the case of the ECAAT project (if any) will be financed by the Government of Kenya.

130) At this stage, it is not possible to estimate the exact number of people who may be affected since the technical designs/details have not yet been developed and land needs have not yet been identified. When these locations are known, and after the conclusion of the site specific socio-economic study, information on specific impacts, individual and household incomes and numbers of affected people and other demographic data will be available, thus facilitating the preparation of a detailed and accurate budgets for each RAP. Each RAP will include a detailed budget, Annex 13.

131) The State Department of Livestock Production which is fiduciary department will make a request to the National Treasury to fund the resettlement program. The State department of livestock Production will manage and monitor the resettlement budget through the administrative and financial management guidelines. The resettlement program will be managed through the existing Government structures at national and county levels. These are structures established by the National Land Commission in management of land issues in the country. This budget will be subject to the approval by the national coordinating office. Below is an indicative budget.

**Table 9 : Illustrative Budget for RAP**

| Item  | Estimated Cost US\$ | Comments  |
|---|---------------------|---|
| Preparation for full RAP for new Sub-projects             | 350,000             | Full RAP US\$ 50,000 plus RAP for 30 new Sub projects @ US \$ 10,000 each                     |
| Resettlement compensation for Sub projects <sup>10</sup>  | 30,000              | Assume 30 approximately 10% Sub-projects (3) involving resettlement @ US\$ 10,000/Sub-project |
| Compensation for crop smallholder farmers                 | 1500                | Assume 30 approximately 5% Sub-projects with (1.5) involving resettlement @ US\$ 1,000/each   |
| Capacity building for mainstreaming the Social Safeguards | 200,000             | Training at all levels  |
| Compensation for livestock pastoral system/livelihoods    | 75,000              | Assume 30 Sub-projects 5% (1.5) involving resettlement @ US\$ 55,000/Sub-project              |

<sup>10</sup>E.g. a water pan and/or community irrigation scheme will be located in such a way as to avoid physically relocating people, however land take may be required.

| Item   | Estimated Cost US\$ | Comments  |
|--|---------------------|---|
| Compensation for horticultural crops: vegetables, fruits and flowers | 150,000             | Assume 30 Sub-projects 10% (3) involving resettlement @US\$ 50,000/Sub-project  |
| Compensation for tree crops  | 60,000              | Assume 30 Sub-projects 20% (6) involving resettlement @ US\$ 10,000/Sub-project |
| Compensation for housing and other infrastructure                    | 15,000              | Assume 30 Sub-projects 5% (1.5) involving resettlement @US\$ 15,000/Sub-project |
| Administrative costs   | 100,000             |   |
| RAP M&E and audit Costs  | 250,000             | Assume external expert costs/year over 5 year-period                            |
| Contingency/Administrative Costs                                     | 100, 100            |   |
| <b>Total</b>   | <b>1,331,600</b>    |   |

## 5.6 IMPLEMENTATION ARRANGEMENTS

### 5.6.1 Introduction

132) ECAATP implementation will involve a two-tiered institutional arrangement (national and county). At the first-tier, national level, the National Treasury (NT) will represent the Government of the Republic of Kenya (“the Borrower”) and the MoA&I will be the main implementing agency. Within the MoA&I, the project will be anchored in the State Department of Livestock (SDL). At National Level, the project will be coordinated by an NPCU and implemented through agencies (KALRO, KAGRC, KDB, KEPHIS, SDA, KLBO, LRC, State Department of Trade, State Department of Cooperative, Technical and Vocational Training Institutions and Universities) with national mandate. The second tier will be the county level, with the county governments as the executing agencies of the project through a county implementation unit that will work closely with the NPCU/National agencies and the farmer/pastoralist project beneficiaries. The two-tier institutional arrangement aims to: (a) lessen the approval layers for faster decision-making and consequently efficient project implementation; and (b) utilize mostly the constitutionally mandated governance structures at the national and county levels, to the extent possible.

133) **National level:** The overall project oversight and policy guidance will be provided by the National/Project Steering Committee (NPSC). The National Project Steering will be composed of Principal Secretaries of all sector related ministries and agencies; namely (PS-Livestock, PS-Agriculture, PS-National Treasury, PS-EAC Integration, PS-Vocational Training, PS-

Trade, PS-Cooperatives, DG-KALRO, COG, CEO-KENAFF, CEO-KEPSA, JKUAT, Vision 2030 Secretariat Representative, CFO, Supply Chain) The NPSC will provide coherence and policy guidance and direction to the reform process. . The National Technical Committee: Technical Committees to ensure that proposed reforms follow a common and coherent overall framework in line with stakeholder analysis and views. This committee will be composed of; the Agriculture Secretary, Director of Livestock Production, Director of Veterinary Services, Representatives of KALRO, TVETA, Trade, Cooperatives, KEPHIS, KAGRC, KDB, KEPSA, STAK, KIRDI, Kenya Dairy Processors, Producer Associations, JKUAT, KENAFF, ILRI and Chair Agriculture CECs Caucus

134) **County level:** The County Project Implementation Unit will be established to provide project implementation oversight in the respective counties. The CPIU will comprise chief officers of the relevant county ministries, county director of environment; and representatives from the private sector, and civil society. CPIU will be responsible for approving the project annual work plans and budgets at county/sub county level, as well as ward and community micro-project proposals. CPIU will also ensure that project activities are in-line with their respective County Integrated Development Plans (CIDP).

135) The resettlement program will be managed through the existing Government structures at national and county levels. The Monitoring and evaluation of the resettlement program will be undertaken by the NPCU, implementing agencies and the relevant stakeholders. The RAP implementation will be undertaken by the NPCU in liaison with land committees established at all levels but spearheaded by the National Land Commission (NLC).

Table 10: Institutional Roles in RPF Process

| <b>Institution</b>  | <b>Role</b>   |
|---|---|
| NPCU  | In liaison with the PAPs identify need for resettlement based on the envisioned investments; guide the process through the relevant institutions and stakeholders |
| County Government   | Screening of Sub-projects and in cases where resettlement is unavoidable, formation of Resettlement committees  |
| Resettlement committees at Sub-project level (village elders plus selected community value chain/CIG Reps. Local administration, women and youth reps., MCA, Sub-County Administrator | Vet PAPs to be resettled. Completed RAPs are forwarded to the MoA&I and the WB  |

|  |  |
|--|--|
| ECAAT Implementing Institutions/Agencies | Screening of Sub-projects and in cases where resettlement is unavoidable, formation of Resettlement Committees Coordinates grievance mechanisms<br>Approval of RAPs            |
| Certified Valuer                         | Undertake valuation of the assets in liaison with the NPCU and PAPs  |
| National Land Commission (NLC)           | Approval of subdivision and transfer of titles to PAPs at Sub County and County levels; verification of asset register<br>Approval of County proposals for relocation of sites |
| State Department of Livestock            | Establishment of project implementation/coordination structures<br>Control financing of RAPs   |

### 5.6.2 Local Level Planning and Implementation

136) At the local level, a work plan will be developed for the local development component, through a transparent decision-making process. The work plan and budget at county level, and progress reports on all aspects of project implementation in each county will be displayed on a prominent information board at county headquarters. County Chief Officers responsible for agriculture will be responsible for coordinating project implementation initiatives alongside the County Directors of the implementing agencies. The County governments shall take responsibility for implementation of the RPF, with assistance from other line sub county and ward offices of the above-mentioned government ministries.

### 5.6.3 Specific Roles in the Compensation Procedure

137) **Public Participation/Institutional Participation** with the PAPs would initiate the compensation process as part of an ongoing process that would have started at the planning stages when the technical designs are being developed and at the land selection/screening stage. This process, therefore, seeks their involvement and wishes to involve PAPs in a participatory approach with the project, from the beginning.

138) **Notification of land resource holders** – in cases where there is clearly no identified owner/user, the respective local land control boards and the resettlement committee having been involved in identifying the land that the Resettlement Committee's require will notify the community leaders and representatives who will help to identify and locate the land users. These

leaders and representatives will also be charged with the responsibility to notify their members about the established cut-off date and its significance. The user(s) will be informed through both a formal notification in writing and, for as many people as are illiterate, by verbal notification delivered in the presence of the area Chief and representatives of the local Land Control Board, MCA, PAPs and Community Elders.

139) **Documentation of Holdings and Assets** – the Representatives of the National Land Commission, the area Chief, a Local Elder and other member of the Resettlement Committee will arrange meetings with affected individuals to discuss the compensation process. For each individual or household affected, officials of the Resettlement Committee will complete a compensation database containing necessary personal information on the affected party and those that s/he claims as household members, total land holdings, inventory of assets affected, and information for monitoring their future situation. This information will be confirmed and witnessed by NLC Rep, Local Chief, Area MCA and a local elder. Databases will be kept current and will include documentation of lands surrendered. This is necessary because it is one way in which an individual can be monitored over time. All claims and assets will be documented in writing (GoK, 2014).

140) **Agreement on Compensation and Preparation of Contracts** – All types of compensation are to be clearly explained to the individual and households involved. The respective Resettlement Committees will draw up a contract listing all property and land being surrendered, and the types of compensation (cash and/or in-kind) selected. A person selecting in-kind compensation has an order form which is signed and witnessed. The compensation contract and the grievance redress mechanisms are read aloud in the presence of the affected party and the representative of the NLC, the Local Chief, Local MCA, a Representative of PAPs and local Community Elder prior to signing.

141) **Compensation Payments** – All handing over of property such as land and buildings and compensation payments will be made in the presence of the affected party, the NLC representative, Local MCA, Local Elder, Representative of the PAPs and Local Chief.

#### **5.6.4 Community Compensation Payments**

142) It is very unlikely that sub-projects will take land occupied by physical structures, including community facilities. However, if this situation arises, community compensation will be in-kind only for a community as a whole in the form of reconstruction of the facility to at least the same standard or equivalent or better standard as required by local planning regulation. Examples of community compensation include:

- i) School Building (public or religious);
- ii) Public Toilets;

- iii) Well or Pump;
- iv) Market Place;
- v) Road;
- vi) Storage/ warehouse.

## **6.0 PUBLIC CONSULTATION AND DISCLOSURE**

143) The National Project Coordinating Unit conducted stakeholder consultations on 6<sup>th</sup> March, 2018 at KALRO headquarters. Stakeholders consulted included project Implementing agencies, relevant county government officials, smallholder farmer representatives, pastoral communities and vulnerable and marginalized groups' representatives. There were three representatives of indigenous people drawn from Garissa, Kilifi and Elgeyo Marakwet. There was representation of women and youths in the workshop.

144) Comments from participants were incorporated in the RPF. The client will summarize the RPF and disclose in the main local dailies and share the cuttings with the World Bank. In addition, the RPF will be made available in local language at specific locations (county and sub county headquarters, chiefs' and Ward Administrators' offices, churches and other public places and all in a local language) accessible by PAPs. The client will also upload the RPF in the e-government website, accordingly and share the link with the WB. Subsequently, the WB will upload the information in the WB external website before Project Appraisal Mission and update the ECAATP PAD.

## **7.0 PROCESS FOR SCREENING, PREPARING AND APPROVING RAPs**

### **7.1 Introduction**

145) This section sets out the step by step process that ECAATP will undertake to determine whether the Sub-projects will result in physical or economic displacements, and therefore whether a RAP is required and if so, how to prepare and implement one. Section 7.1 describes the screening process, while sections thereafter describe the detailed actions required to prepare RAPs. The screening process presented below will ensure that Sub-projects presented to ECAATP for funding comply with the requirements of Involuntary and Resettlement Policy (OP/BP 4.12) and the Kenyan law under Sections 75, 117 and 118 of the Constitution, and specifically Chapter 295 under the General Land Act relating to land acquisition/use and resettlement.

### **7.2 Screening for Involuntary Resettlement**

146) Sub-project screening is used to identify the types and nature of potential impacts related to the activities proposed under the Project and to provide adequate measures to address the impacts. Screening for resettlement issues shall be part of the environmental and social screening, as is detailed in the ESMF. Measures to address resettlement shall ensure that PAPs are:

- (a) Informed about their options and rights pertaining to resettlement;
- (b) Included in the consultation process and given the opportunity to participate in the selection of technically and economically feasible alternatives;
- (c) Provided prompt and effective compensation at full replacement cost for; and
- (d) Losses of assets and access attributable to the Sub-project(s)

147) Sub-project screening will be incorporated into the Sub-project application form which the County must submit as part of their county development plan. The goal is to identify and consider resettlement issues as early as possible.

148) On the basis of the screening, the County Chief officer<sup>11</sup> for agriculture sector will propose which of the following options should be put in place: (a) an option assessment of alternative project designs with a view to avoid and/or reduce displacement risks; (b) the elaboration of an open minded option assessment as vulnerable and marginalized groups might be affected and if avoidance is not feasible an vulnerable and marginalized groups plan (this

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<sup>11</sup>Respective Chief officers



decision will need to be co-signed by the vulnerable and marginalized groups screening structure); (c) and (c) the elaboration of a resettlement action plan to address all other resettlement risks (**See in Annex 1- ToRs**).

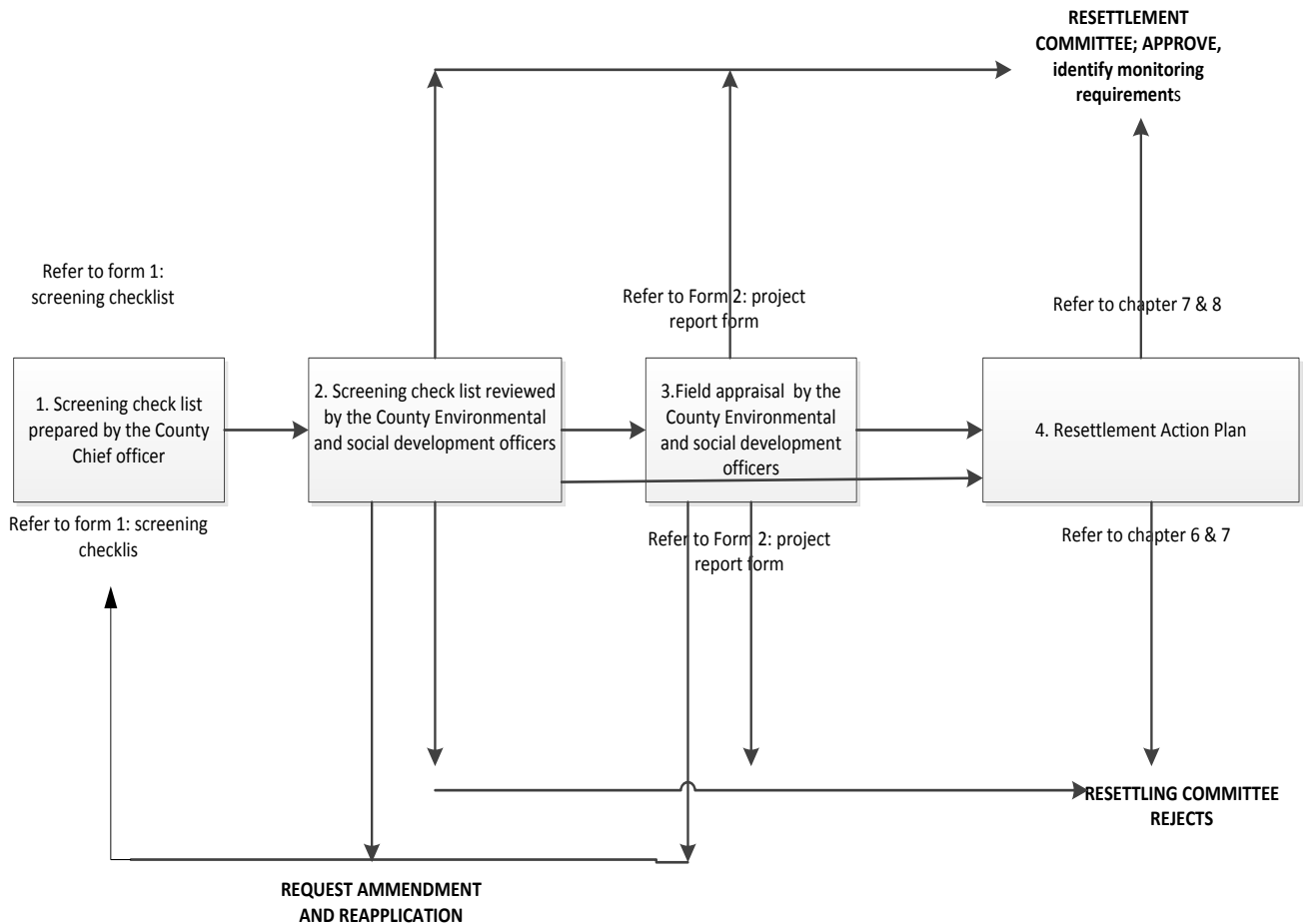
149) For projects not anticipated to result in displacement, and where loss of assets are anticipated to be *negligible*, then this information shall also be indicated in the Sub-project application form along with a request to waive the requirement for a RAP.

### **7.1.1 Screening Checklist**

150) The screening checklist form is shown in Annex 2 and will be incorporated into the Project's Implementation Manual/project operational manual. The screening checklist will be completed by a County Chief officer and submitted to the Resettlement Committee for a decision. In case that vulnerable and marginalized groups might be affected, the VMGF provides an additional recommendation whether the justification for a physical and/or economic resettlement and/or whether the proposed option is shared by the affected vulnerable and marginalized groups.

### **7.1.2 Screening Review Form**

151) The screening form will then need to be reviewed by the County Steering Committee and cleared by the Resettlement Committee. The Resettlement Committee will advise whether an additional option assessment should be carried out with a view to avoid or reduce the physical or economic displacement or whether the argument of the Sub-project proposal is providing sufficient evidence for the proposed decision. The checklist review form, presented in Annex 2, prompts the reviewer to verify the information provided, and confirm the best course of action.



**Figure 2: Decision Tree for Sub-Project Preparation and Approval**

### 7.3 Sub-project design

152) If the screening indicates that an individual Sub-project requires in its present layout the physical or economic resettlement, the project, which might want to finance this Sub-project, will advise on the relevant structures (communities, CIGs, CDDOs, WRUAs, IWUAs, Community Forest Associations, group ranch management committees etc.) to consider feasible alternative Sub-project designs to avoid or at least minimize physical or economic displacement, while balancing environmental, social, financial and costs/benefits.

### 7.4 Baseline and Socio-Economic Data

153) An important aspect of preparing a RAP is to establish appropriate socio- economic baseline data to identify the persons who will be displaced by the individual Sub-project, to

determine who will be eligible for compensation and assistance, and to discourage inflow of people who are ineligible for these benefits. The data will include the age and gender of the PAPs. The PAPs may be classified into three groups:

- a. Those who have formal legal rights to the land they occupy;
- b. Those who do not have formal legal rights to land, but have a claim to land that is recognized or recognizable under the national laws including those measures put in place by the draft land policy; or
- c. Those who have no recognizable legal right or claim to the land they occupy.

154) In summary, the census consolidates information that 1) provides initial information on the scale of resettlement to be undertaken; 2) gives an indication of further socio-economic research needed to quantify losses to be compensated and, if required, to design appropriate development interventions; and 3) establishes indicators that can/be measured at a later date during monitoring and evaluation. An illustrative example of a census survey form is provided in Annex 3. Baseline data for Sub-Project RAPs will include: number of persons; number, type, and area of the houses to be affected; number, category and area of residential plots and agricultural land to be affected; and productive assets to be affected as a percentage of total productive assets.

## 7.5 Preparation of a Sub-project RAP

155) A RAP shall be prepared by the County Coordination Unit, preferably with the support of technical service providers or mobile extension teams, for Sub-projects that have been determined to result in potential involuntary resettlement and/or land acquisition. When a RAP is required, the CCU shall submit completed studies along with their RAP's Sub-project application to the Resettlement Committee for appraisal, and subsequently to the NPCU and World Bank. Detailed guidelines for preparing a RAP and an abbreviated RAP are available on the World Bank's website ([www.worldbank.org](http://www.worldbank.org)) and in the World Bank's Resettlement and Rehabilitation Guidebook. The basic elements of a RAP (in the case where an RPF is in place) are provided in Table 10.

**Table 11 : Contents of a RAP – Involuntary Resettlement Policy (OP/BP 4.12)**

|  |
|--|
| <ul style="list-style-type: none"> <li>• Description of activity and its potential impact</li> <li>• Census survey</li> <li>• Methodology for valuation</li> <li>• Particular aspects of the legal framework for land acquisition and compensation,</li> </ul> |
|--|

as applied to the sub-project;

- Particular aspects of the compensation framework as applied to the sub-project;
  - Description of resettlement assistance and restoration of livelihood activities;
  - Detailed budget;
  - Implementation schedule;
  - Particular aspects of the description of organizational responsibilities, as applied to the sub-project;
  - Details of public consultations, participation, and planning for the sub-projects;
  - Particular aspects of the description of provisions for redress of grievances, as applied to the sub-project; and
  - Particular aspects of framework for monitoring, evaluation, and reporting, as applied to the sub-project.
-

## **7.6 Review of Sub-project RAPs**

156) Sub-projects proposed by the County will be reviewed and recommended by the Resettlement Committee. In this process, RC will review eligibility for Sub-projects based on field appraisals, which includes results of the environmental and social screening used and consequently, approval by the County Project Steering Committee (CPSC).

157) The RAP will be submitted once completed to the county technical team/Resettlement committee for screening and approval in compliance with the project institutional administrative arrangements. It is anticipated that Counties will not have the institutional capacity to prepare RAPs or studies during the start of the program and thus will be assisted and supported by NPCU. The identified service providers/ stakeholders will be capacity build on RAP development to be able to assist the counties in developing and implementing the RPF. The Ministry of Lands, National Land Commission and the County Land Boards will be trained on the environmental and social safeguards policies and good practices as well as be supported to strengthen and/or set up systems for monitoring and implementation of the same. Capacity building for the safeguards systems will also be supported under the Kenya Devolution Trust Fund managed by the World Bank. This will ensure there is a trained cadre of staff at the County level with knowledge about environmental and social safeguards and systems in place.

### **7.6.1 Strategy to handle Conflicts**

158) As the screening process is carried out by the beneficiaries, they will establish an independent grievance mechanism, guided by the County Steering Groups, to inform all PAPs about the project and receive and address specific concerns about compensation and relocation that are raised by displaced persons or members of host communities, including a recourse mechanism designed to resolve disputes in an impartial manner.

### **7.6.2 Compensation and Benefits for Displaced Persons**

159) The Implementation Agencies will oversee the implementation of resettlement activities and ensure that displacement or restriction of access does not occur before necessary measures for resettlement are in place. When displacement cannot be avoided, the project, which wants to finance the individual Sub-project, will offer displaced persons and communities' compensation for loss of assets at full replacement cost and other assistance to help them improve or at least restore their standards of living or livelihoods. Where livelihoods of displaced persons are land-based, or where land is collectively owned, the projects will offer land-based compensation. The

project will further provide opportunities to displaced persons and communities to derive appropriate development benefits from the project.

### **7.6.3 Loss of Property**

160) This includes loss of: houses, crops and trees, structures, fixed improvements, businesses which should be compensated at market valuation, negotiated settlements, productivity valuation, material and labor valuation. In cases where the loss is partial then disposition of salvage material will be exercised. Cash payments may also be made if a small fraction of property is lost instead of replacing the whole property, but if the partial loss results in the PAPs not being economically viable then the property is replaced. Those who lose houses will also be assisted with temporary residence (if necessary).

### **7.6.4 Loss of Wages and Income**

161) These are persons who will lose their income due to the project. Workers losing employment in the process of relocation should be entitled to transitional income support. Compensation equivalent to lost income required for the duration of impact should be paid to the latter. In addition, PAPs will be entitled to transitional assistance, which include moving expenses, temporary residence (if necessary), and employment in the project while waiting employment. In difficult cases, local authorities such as chiefs may be used to judge eligibility as well as village committees.

### **7.6.5 Cut-Off Date**

162) Cut-off dates are essential in the process of drawing up lists to ensure that ineligible persons do not take the opportunity to claim eligibility. The establishment of a cut-off date is required to prevent opportunistic invasions/rush migration into the chosen land thereby posing a major risk to the sub-project. The cut-off date for this project shall be determined by the Resettlement Committee, as appropriate, making anyone who makes a claim for loss of land or any assets after such a date ineligible for expropriation/ compensation.

163) The entitlement cut-off date refers to the time when the assessment of persons and their property in the identified project areas are carried out, i.e. the time when the sub-project owners/implementers have identified the land sites they would need and when the socio-economic study is taking place. Thereafter, no new cases of affected people will be considered. Unfinished structures would be identified and secured, and unused materials for individuals' constructions will be gathered at the site so that the cut-off survey can estimate PAPs' investment which should be compensated for in lieu of expenses (including labour) incurred until the cut-off date. Because the time period between the cut-off date and the time that actual

productive investments (civil works, etc.) would start, (e.g. likely to be anytime period from six months on), special attention needs to be taken to secure the sites from rush and opportunistic invasion.

164) These measures could include close consultation with the recognized PAPs, signs that inform general public of intended use of site, security patrols to identify opportunistic invaders etc. Further patrols and monitoring of any violation of the cut-off date could be carried out by local administrations such as the office of the Chief and be reported to the County resettlement committee. This could also be done both by the local PAPs representatives or the local community. The cut-off date is to be chosen in close consultation with the County governments responsible for land administration, and local leaders and the sub project owners/implementers. This should occur as soon as possible after the affected land is identified.

165) This process must be in full compliance with the conflict resolution mechanisms in this RPF and this date must be communicated effectively to the potential PAPs and surrounding local communities. The local community and community leaders will play a crucial role in identifying users of land.

#### **7.6.6 Consultation**

166) During the implementation of the resettlement program consultations should take place as early as possible; disclosure of all relevant information, documentation and sharing will be done through the project's communication channels and other community platforms including the grievance redress mechanisms systems to ensure all stakeholders are reached and have relevant information to make informed decision.

167) The project will ensure RAPs consultation with all stakeholders and PAPs prior through informed participation including host communities, in decision making processes related to the formulation and implementation of the resettlement action plan. The NPCU will ensure that consultations continue throughout the project cycle to ensure that the living conditions of the PAPs are enhanced and/or restored.

### **7.7 Approval of Resettlement Action Plans<sup>12</sup>**

168) After clearance from the Resettlement Committee, the compensation, resettlement and rehabilitation activities of the RAP will be satisfactorily completed and verified by the communities before funds can be disbursed for civil works under the Sub-project. The EMPs and RAPs developed for Sub-projects will also be reviewed by the Implementation Agencies and the

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<sup>12</sup>Read together with the project operational manual

World Bank. For quality assurance, it is required that RAPs prepared for Sub-projects be submitted to the World Bank for review to ensure that they are produced in line with the OP 4.12. Gaps in quality shall be addressed through training at the county level for relevant service providers and reviewers, funded by the project as part of the budget for capacity building. Subsequent RAPs prepared throughout the rest of the project can then be reviewed by the Land Commissioners, with an annual independent review process led by the NPCU.

## **7.8 Mechanism for Consultations and Participation of Displaced Persons in Planning, Implementation and Monitoring**

### **7.8.1 Introduction**

169) The involvement of involuntary resettlers and hosts in planning prior to the implementation is critical. Initial resistance to the idea of involuntary resettlement is to be expected. To obtain cooperation, participation, and feedback, the affected hosts and resettlers will be systematically informed and consulted during preparation of the resettlement plan about their options and rights. They will also be able to choose from a number of acceptable resettlement alternatives. Particular attention must be given to vulnerable groups such as vulnerable and marginalized groups, ethnic minorities, the landless, and women to ensure that they are represented adequately in such arrangements. A comprehensive process of free, prior, and informed consultations should be completed for indigenous communities and VMGs.

170) The plan should address and mitigate the resettlement's impact on host populations. Host communities and local governments should be informed and consulted. Any payments due to the hosts for land or other assets provided to resettlers should be promptly rendered. Conflicts between hosts and resettlers may develop as increased demands are placed on land, water, grass, forests, services etc., or if the resettlers are provided services and housing superior to that of the hosts. Conditions and services in host communities should improve, or at least not deteriorate. Providing improved education, water, health and production services to both groups fosters a better social climate for their integration. In the long run, the extra investment will help prevent conflicts and secure the project's aim.

171) Successful resettlement requires a timely transfer of responsibility from settlement agencies to the resettlers themselves. Otherwise, a dependency relationship may arise, and agency resources may become tied up in a limited number of continually supervised schemes. Local leadership must be encouraged to assume responsibility for environmental management and infrastructure maintenance. Relocating or compensating people implies communication or dialogue with the stakeholders. The consultation and participation process will include:

- a. Data collection, analysis and interpretation



- b. Preparation and planning
- c. Implementation
- d. Monitoring and evaluation
- e. communication

The project will coordinate all the five operations.

### **7.8.2 Data Collection, analysis and interpretation**

172) After familiarizing with the project through literature review and consultations with the Ministry of Agriculture and Irrigation and the NPCU officials, the government team will design appropriate questionnaires intended for data collection at project sites. The sites will vary from households to community groups, based on the TOR for the socio-economic surveys and study.

#### **Preparation and planning**

173) The government team will ensure inclusivity of all targeted PAPs at all levels of the study. The PAPs will be consulted through meetings at county governments' halls and other county facilities to provide preliminary accurate data. Information about the project, will be shared in a local language that they understand. PAPs will be given a platform to ask questions about the project, identify social impacts of project operations, and suggest mitigation measures and alternatives to be considered in the design. The contribution of the PAPs will be integrated into the Sub-projects implementation process, from planning to evaluation. Furthermore, data about socio-impacts of the Sub-projects and the mitigation measures suggested will be provided to local newspapers and local radio stations and other media. The data collected will serve as instruments for the monitoring of the social mitigation measures.

### **7.8.3 Implementation Phase**

174) During implementation, the PAPs will need to be informed about their rights and options, at which point they will have their say and discuss matters that need clarification. 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 affected. The CPSC will set up grievance redress mechanisms.

#### **a) RAP Monitoring and Evaluation Phase**

175) The PAPs representatives will participate in the project completion workshops (annual, mid-term and end term), to give their evaluation of the impacts of the project. They will also suggest corrective measures, which will be used to improve implementation of other Sub-

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.

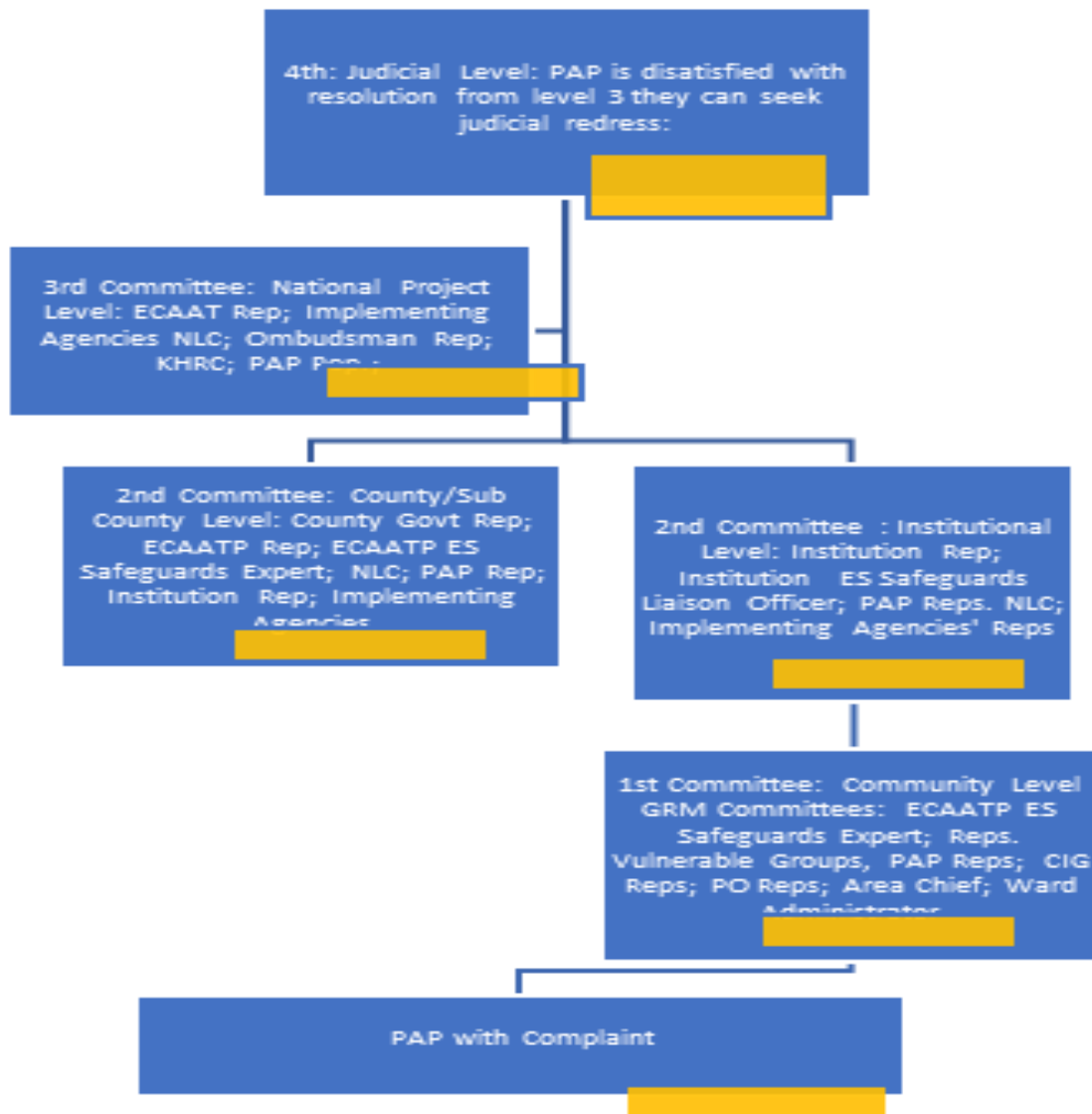
**b) Grievances Redress Mechanisms**

176) Four levels are proposed here as avenues to resolving complaints or grievances arising from implementation of the project. The benefitting communities will be assisted by the County Project Implementation Unit (CPIU) to establish the GRM committees<sup>13</sup> including representatives of the VMGs and communities who subsequently will be trained to receive and resolve issues arising at that level. Issues or complaints that would not be resolved at the community level shall thus be forwarded to the next level (County/Institutional level). Subsequently, complaints which will not be resolved at this level will again be escalated to the NPCU. Any complaint that will not be resolved at this level will then be referred to the legal courts.

177) The objectives of the grievance redress process are to: provide affected people with avenues for making a complaint or resolving any dispute that may arise during the course of the implementation and determination of entitlements of compensation and implementation of the project; ensure that appropriate and mutually acceptable redress actions are identified and implemented to the satisfaction of complainants; and avoid the need to resort to forceful actions and/or judicial proceedings as well as providing a transparent and accountable implementation process. The general steps of the grievance process comprise: sensitization of target beneficiaries, constitution of institutional structures, capacity building, receipt of complaints; determining and implementing the redress action; verifying the redress action; amicable mediation and settlement; dissatisfaction and alternative actions; and documentation and communication. The GRM will also include timelines for implementation of redress process.

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<sup>13</sup> The marginalized groups (include: marginalized/minority communities, elderly, physically challenged, the sick, single parents, women and youth) are members in the GRM committees to ensure that their concerns are identified and articulated.



**Figure 3: Four Levels of Grievance Redress Mechanism**

178) Grievances may arise from members of communities who are dissatisfied with: (a) the eligibility criteria, (b) community planning measures, (c) approval of CDPs and allocation of funds or (d) actual implementation

179) This section sets out the measures to be used to manage grievances. The overall process of grievance handling is as follows:

- a) At community level, the GRM Committees' role will also include resettlement related issues/grievances. Therefore, GRM Committees will also recommend compensation rates to the Compensation Committees.

b) During the initial stages of the valuation process, the affected persons are given copies of grievance procedures as a guide on how to handle the grievances/sensitization of PAPs.

c) The process of grievance redress will start with registration of the grievances to be addressed for reference, and to enable monitoring of progress updates of the cases. An example of a grievance redress form is provided in Annex 5.

d) The project will use a local mechanism, which includes peers and local leaders of the affected people. These will ensure equity across cases; they eliminate nuisance claims and satisfy legitimate claimants at low cost.

e) The response time will depend on the issue to be addressed but should not exceed 10 business days. Compensation will be paid to individual PAPs only after a written consent of the PAPs is received, including both husband, wife and children.

f) Should a PAP decline the compensation suggested, he/she could appeal to the County Project Steering Committee, National Project Steering Committee and the National Land commission (NLC). If the grievance is not resolved by these levels then the PAP may seek redress at a court of law.

g) A GRM/Compensation Committee (CC) at the community level and the National Land Commission (NLC) at the County level will first revise his/her case.

h) Then the GRM/Compensation Committee at the community level will draft its inclusions and submit them to the implementing agencies (IAs) at the next level for deliberation in the aim of settling the differences.

i) And when these have failed the individual PAP has the right to take his case to the civil courts for litigation.

180) In order to deal with the grievance that may rise during the implementation of the RAP, there is need to incorporate a grievance redress process with IAs and with PAPs and VMGs representatives committee to hear the complaints and provide solutions at community level and reduce unnecessary litigation by resolving disputes through mediation.

### **c) Grievance Redress Process**

181) At the time the individual resettlement plans are approved and individual compensation contracts are signed, affected individuals and homesteads would have been informed of the

process for expressing dissatisfaction and seeking redress. The grievance procedure will be simple, administered as far as possible at the local levels to facilitate access, flexibility and open to scrutiny.

182) Therefore, taking these concerns into account, all grievances concerning non-fulfilment of contracts, levels of compensation, or seizure of assets without compensation should be logged in at the local GRM but forwarded to the County National Land Commission (NLC) Representative with a copy to the County Project Steering Committee.

183) If the verdict rendered by the NLC representative is not acceptable to the individual affected (PAP), then the parties in their compensation contract would have agreed that the matter would be appealed to a Court of Law as provided for by law. Notwithstanding that the grievance redress mechanism accepts that the compensation and resettlement plans will be (contracts) binding under the laws of Kenya.

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

185) Grievance procedures may be invoked at any time, depending on the complaint. No person or community from whom land or other productive assets are to be taken will be required to surrender those assets until any complaints s/he has about the method or value of the assets or proposed measures are satisfactorily resolved.

186) All attempts would be made to settle grievances. Those seeking redress and wishing to state grievances would do so by notifying their local GRM Committee whose membership includes area chief. The GRM Committee, the IA, National Land Commission, PAP, would consult each other including records to determine validity of the claim or grievance. If valid, the GRM will notify the complainant and s/he will be notified of the verdict arrived at that level. If the complainant's claim is rejected, then the matter will be brought before the County Land Office and National Land Commission with also project management. If the PAP is dissatisfied with their decision, then s/he will be free to seek the determination by escalating the matter to the national level. And finally, a Court of Law as provided for in the Constitution. The decision of the High Court would be final and all such decisions must be reached within a full growing season after the complaint is lodged.

187) If a complaint pattern emerges, the Resettlement Action Plan implementing agencies (IAs), the National Land Commission and the local GRM with presence of the area Chief/Ward Administrator will discuss possible remediation. The local leaders will be required to give advice

concerning the need for revisions to procedures. Once they agree on necessary and appropriate changes, then a written description of the changed process will be made. The IA and the National Land Commission will be responsible for communicating any changes to future potential PAPs when the consultation process with them begins.

## **8.0 MONITORING AND EVALUATION**

### **8.1 Arrangements for Monitoring and Evaluation**

188) This section sets out requirements for the monitoring of the implementation of the RPF. In addition, monitoring of social indicators will be mainstreamed into the overall monitoring and evaluation system for both levels of project implementation (sub-projects and project). The arrangements for monitoring will be anchored on the overall monitoring plan of the entire ECAATP which will be through the NPCU of the Project, housed at the Ministry of Agriculture and Irrigation– State Department of Livestock. All RAPs will set the following major socio-economic goals by which to evaluate their success:

- a. Affected individuals, households, and communities able to maintain their pre-project standard of living, and even improve on it; and
- b. Local communities remaining supportive to the project.
- c. Absence or prevalence of conflicts.

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

190) The NPCU and IAs will institute an administrative reporting system that:

- a. Provides timely information about all resettlement grievances arising as a result of ECAATP project activities for action;
- b. Identifies any grievances in relation to resettlement that have not been resolved at a County level and require resolution through the involvement of the NPCU;
- c. Documents the timely completion of project resettlement obligations (i.e. payment of the agreed-upon sums, construction of new structures, etc.) for all permanent and temporary losses;
- d. Evaluates whether all PAPs have been compensated in accordance with the requirements of this RPF, and that PAPs have higher living standards in comparison to their living standards before physical or economic displacement.
- e. Feedback system to the PAP process and other stakeholders consistent with the Environmental and Social Management Framework, the Sub-project Committees and county coordinating teams will be responsible for periodically transferring the information compiled “on the ground” to the NPCU, so that it is alerted in a timely manner to any difficulties arising at the County level.

## 8.2 Monitoring Of RPF Implementation

191) County Implementing Units/Agencies/National Centres of Specialization/Leadership will compile basic information on all physical or economic displacement arising from the ECAATP, and convey this information to the NPCU, on a quarterly basis. They will compile the following statistics:

- a. No. of Sub-projects requiring preparation of a RAP;
- b. No. of households, and number of individuals (women, men and children) physically or economically displaced by each macro-project;
- c. Length of time from sub-project identification to payment of compensation to PAPs;
- d. Timing of compensation in relation to commencement of physical works;
- e. Amounts of compensation paid to each PAP household (if in cash), or the nature of compensation (if in kind);
- f. No. of people raising grievances in relation to each macro-project;
- g. No. of unresolved grievances.

192) The Project Safeguards Officer will scrutinize these statistics in order to determine whether the resettlement planning arrangements as set out in this RPF are being adhered to. They will alert the ECAATP coordinators, and the Ministry of Agriculture, Livestock and Fisheries, if there appears to be any discrepancies. The financial unit under the NPCU will directly monitor compensation. The NPCU will allow for calculation of the final cost of resettlement and compensation per PAP; financial records will be maintained by the sub-projects.

193) The resettlement statistics will also be provided to an independent consultant who will be contracted on an annual basis, in collaboration with the Environmental Audit (as described in the ESMF). The indicators in table 11 will be used to monitor implementation of the RPF.

**Table 12:** ECAATP RPF Verifiable Indicators

| Monitoring   | Evaluation  |
|--|---|
| Outstanding compensation or resettlement contracts not completed before next agricultural season | Outstanding individual compensation resettlement contracts                              |
| Subprojects unable to settle compensation after two years  | Outstanding compensation contracts  |
| Grievances recognized as legitimate out of all complaints lodged                                 | All legitimate grievances rectified   |
| Pre-project production and income (year before land used) versus present production and          | Affected individuals and /or households compensated or resettled in first year who have |



|  |  |
|--|--|
| income of resettlers, off-farm income trainees, and users of improved agricultural techniques      | maintained their previous standard of living at final evaluation |
| Pre-project production versus present production (crop for crop, land for land)                    | Equal or improved production per affected household/homestead    |
| Pre-project income of vulnerable individuals identified versus present income of vulnerable groups | Higher post-project income of vulnerable individuals             |

### **8.3 Database Management for PAPs**

194) Each PAP will be provided with among others: signed documents recording initial situation, all subsequent sub project use of assets/improvements, and compensation agreed upon and received. The Resettlement Committee and NPCU will maintain a complete database on every PAP impacted by the project land use requirements including relocation/resettlement and compensation, land impacts or damages. Each PAP receiving compensation will have a database containing:

- a. PAP biological information
- b. Number of dependent/PAP claim.
- c. Amount of land available to the PAP when the database is opened.
- d. Additional information will be acquired for PAP's eligibility for resettlement and/or compensation:
- e. Level of income and of production
- f. Inventory of material assets and improvements in land, and
- g. Debts.

195) Each time land is used /acquired by a Sub-project, the database will be updated to determine if the PAP is being affected to the point of economic non-viability and eligibility for compensation/resettlement or its alternatives. These databases will provide the foundation for monitoring and evaluation, as well as documentation of compensation agreed to, received, and signed for.

### **8.4 RPF Audit**

#### **8.4.1 Annual Audit**

196) The annual audit of RPF implementation will include: a summary of the performance of each Sub-project vis-à-vis its RAP; and a presentation of compliance and progress in the overall implementation of the RAP. The audit will: Verify results of internal monitoring; Assess whether the RAP sub projects are in compliance with Op 4.12 and the Government regulations; whether

the resettlement objectives have been met; specifically, whether livelihood and living standards have been restored or enhanced; Assess the resettlement efficiency, effectiveness, impact and sustainability, drawing lessons for future resettlement activities and recommending corrections in the implementation; Ascertain whether the resettlement entitlements were appropriate to meeting the objectives and whether the objectives were suited to PAPs conditions. Annual audit reports will be submitted to the NPCU and shared with the World Bank for information.

### **8.5 Socio-Economic Monitoring**

197) The purpose of socio-economic monitoring is to ensure that PAPs are compensated and recovery is on time. It will go on as part of the implementation of each Sub-project RAP, to assess whether compensation has been paid, income has been restored and resettlement objectives were appropriate and delivered. Monitoring of living standards will continue following resettlement. The objective is that the standard of living of the PAPs has been improved, restored and has not declined.

198) A number of indicators would be used in order to determine the status of affected people (land being used compared to before, standard of house compared to before, level of participation in project activities compared to before, how many children in school compared to before, health standards, etc.). The following parameters and verifiable indicators will be used to measure the resettlement and compensation plans performance.

199) For each Sub-project with adverse social impacts, a monitoring and evaluation plan of the mitigation measures will be established. As part of the preparation of each RAP, a household survey will be conducted of all PAPs, prior to physical or economic displacement, and this will provide baseline data against which to monitor the performance of the RAP. Following the completion of all expropriation/compensation operations, a household survey will be conducted. The aim of the survey is to assess the impacts of the social mitigation and measures implemented. In addition, the relevant county technical teams and PAPs will be consulted to provide their assessments of the impacts of social mitigation measures applied.

## ANNEXES

### Annex 1: Draft TORs for Elaboration of Resettlement Action Plan (RAP)

This template is extracted from Involuntary and Resettlement Policy (OP/BP 4.12) Annex 1 which can also be found on the Bank's website at [www.worldbank.org](http://www.worldbank.org).

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

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

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

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

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

**(a) The results of a census survey covering;**

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

**(b) Other studies describing the following;**

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

The patterns of social interaction in the affected communities, including social support systems, and how they will be affected by the Sub-project

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

(c) Overall, the process for screening, preparing and approving RAPs: The baseline data for subproject RAPs would also need to include the gender of PAPs, livelihood and their age (necessary to determine their level of vulnerability if any).

**Legal Framework:** The findings of an analysis of the legal framework, covering:

(a) The scope of the power of eminent domain and the nature of compensation associated with it, in terms of both the valuation methodology and the timing of payment,

(b) The applicable legal and administrative procedures, including a description of the remedies available to displaced persons in the judicial process and the normal timeframe for such procedures, and any available alternative dispute resolution mechanisms that may be relevant to resettlement under the sub project,

(c) Relevant law (including customary and traditional law) governing land tenure, valuation of assets and losses, compensation, and natural resource usage rights, customary personal law related to displacement, and environmental laws and social welfare legislation.

(d) Laws and regulations relating to the agencies responsible for implementing resettlement activities

(e) Gaps, if any, between local laws covering eminent domain and resettlement and the Bank's resettlement policy, and the mechanisms to bridge such gaps, and,

- (f) Any legal steps necessary to ensure the effective implementation of resettlement activities under the project, including, as appropriate, a process for recognizing claims to legal rights to land, including claims that derive from customary and traditional usage .

**Institutional Framework:** The findings of any analysis of the institutional framework covering:

- (a) The identification of agencies responsible for resettlement activities and NGOs that may have a role in project implementation;
- (b) An assessment of the institutional capacity of such agencies and NGOs; and
- (c) Any steps that are proposed to enhance the institutional capacity of agencies and NGOs responsible for resettlement implementation.

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

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

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

**Site selection, site preparation, and relocation:** Alternative relocation sites considered and explanation of those selected, covering,

- (a) Institutional and technical arrangements for identifying and preparing relocation sites, whether rural or urban, for which a combination of productive potential, local advantages, and other factors is at least comparable to the advantages of the old sites, with an estimate of the time needed to acquire and transfer land and ancillary resources,
- (b) Any measures necessary to prevent land speculation or influx of eligible persons at the selected sites,

(c) Procedure for physical relocation under the project, including timetables for site preparation and transfer; and

(d) Legal arrangements for regularizing tenure and transferring titles to resettlers.

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

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

**Community Participation:** a description of the strategy for consultation with and participation of resettlers and host communities, including:

(a) A description of the strategy for consultation with and participation of resettlers and hosts in the design and implementation of resettlement activities,

(b) A summary of the views expressed on how these views were taken into account in preparing the resettlement plan,

(c) A review of the resettlement alternatives presented and the choices made by displaced persons regarding options available to them, including choices related to forms of compensation and resettlement assistance, to relocating as individual families or as parts of preexisting communities or kinship groups, to sustaining existing patterns of group organization, and to retaining access to cultural property (e.g. places of worship, pilgrimage centers, cemeteries); and

(d) Institutionalized arrangements by which displaced people can communicate their concerns to project authorities throughout planning and implementation, and measures to ensure that such vulnerable groups as vulnerable and marginalized groups, ethnic minorities, landless, and women are adequately represented.

**Integration with host populations:** Measures to mitigate the impact of resettlement on any host communities, including:

(a) Consultations with host communities and local governments,

(b) Arrangements for prompt tendering of any payment due the hosts for land or other assets provided to resettlers,

(c) Arrangements for addressing any conflict that may arise between resettlers and host communities, and

(d) Any measures necessary to augment services (e.g. education, water, health, and production services) in host communities to make them at least comparable to services available to resettlers.

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

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

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

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

**Monitoring and evaluation:** Arrangements for monitoring of resettlement activities by the implementing agency, supplemented by independent monitors as considered appropriate by the Bank, to ensure complete and objective information; performance monitoring indicators to measure inputs, outputs, and outcomes for resettlement activities; involvement of the displaced persons in the monitoring process; evaluation of the impact of resettlement for a reasonable

period after all resettlement and related development activities have been completed; using the results of resettlement monitoring to guide subsequent implementation.



## Annex 2: Screening Checklist

|                         |                    |
|-------------------------|--------------------|
| <b>Sub-project name</b> | <b>(type here)</b> |
| <b>Location</b>         | <b>(type here)</b> |
| <b>Estimated cost</b>   | <b>(type here)</b> |

### TYPE OF PROJECT OR ACTIVITY

|            |  |
|------------|--|
| CATEGORY A | <input type="checkbox"/> Policy, legal or strategy document<br><input type="checkbox"/> Dam project greater than 15m in height<br><input type="checkbox"/> Medium-scale water storage structure<br><input type="checkbox"/> Rehabilitation of medium-scale water storage structure<br><input type="checkbox"/> Agro Forestry concession with the private sector<br><input type="checkbox"/> Construction of roads, bridges |
|------------|--|

|            |   |
|------------|---|
| CATEGORY B | <input type="checkbox"/> Farm forestry or agroforestry, small-scale woodlots and tree nurseries<br><input type="checkbox"/> Small-scale irrigation scheme<br><input type="checkbox"/> Small-scale water storage facility<br><input type="checkbox"/> Spring capping or rural water supply scheme<br><input type="checkbox"/> Small-scale dam (less than 15m in height)<br><input type="checkbox"/> Check-dam<br><input type="checkbox"/> Dykes<br><input type="checkbox"/> Riverbank stabilization<br><input type="checkbox"/> Terracing of farmland<br><input type="checkbox"/> Agricultural interventions<br>Please give more details: (type here)<br><input type="checkbox"/> Support to income generating initiatives<br>Please give more details: (type here)<br><input type="checkbox"/> Other<br>Please give more details: (type here) |
|------------|---|

### CATEGORY A PROJECTS

For all Category A projects, an Environmental and Social Management Plan (ESMP) will be required

In addition, the following studies may be required:

|   | Yes                      | No                       |
|---|--------------------------|--------------------------|
| Will this Category A project affect VMGs? If yes, a VMGs plan will be required  | <input type="checkbox"/> | <input type="checkbox"/> |
| Will this Category A project require land for its development, and therefore displace individuals, families or businesses from land that is currently occupied, or restrict people access to crops, pasture, fisheries or forest, even, whether on a permanent or temporary basis? If yes, a Resettlement Action Plan will be required. | <input type="checkbox"/> | <input type="checkbox"/> |
| Will this category A project involve the use of pesticides? If yes, a pest management plan will be required.  | <input type="checkbox"/> | <input type="checkbox"/> |

### CATEGORY B PROJECTS

| Please describe how the project complies (type here)<br>with the most relevant planning document, for example<br>County Integrated Development Plan or the Sub project Plan   |                          |                          |
|---|--------------------------|--------------------------|
| <b>Will the project:</b>  | <b>Yes</b>               | <b>No</b>                |
| Adversely affect natural habitat nearby, including forests, rivers or wetlands?   | <input type="checkbox"/> | <input type="checkbox"/> |
| Require large volumes of construction materials (e.g. gravel, stones, water, timber, firewood)?   | <input type="checkbox"/> | <input type="checkbox"/> |
| Use water during and after construction, which will reduce the local availability of groundwater and surface water?   | <input type="checkbox"/> | <input type="checkbox"/> |
| Lead to soil degradation, soil erosion or soil salinity in an area?   | <input type="checkbox"/> | <input type="checkbox"/> |
| Create waste that could adversely affect local soil, vegetation, rivers and streams or ground water?  | <input type="checkbox"/> | <input type="checkbox"/> |
| Creates pool of water that provide breeding ground for disease vectors (for example malaria or bilharzia)?  | <input type="checkbox"/> | <input type="checkbox"/> |
| Involves significant excavation, demolition, movement of earth, flooding or other environmental changes?  | <input type="checkbox"/> | <input type="checkbox"/> |
| Affected historically-Important or culturally-Important sites nearby?   | <input type="checkbox"/> | <input type="checkbox"/> |
| Require land for development and thereby displaces individuals, families or businesses from land that is currently occupied, or restricts people's access to crops, pasture, fisheries, forests or cultural resources, weather on a permanent or temporary basis? | <input type="checkbox"/> | <input type="checkbox"/> |

|  |                          |                          |
|--|--------------------------|--------------------------|
| Results in human health or safety risks during construction or later?                        | <input type="checkbox"/> | <input type="checkbox"/> |
| Involve inward migration of people from outside the area for employment or other purposes?   | <input type="checkbox"/> | <input type="checkbox"/> |
| Results in conflicts or disputes among the communities?                                      | <input type="checkbox"/> | <input type="checkbox"/> |
| Affect indigenous people, or be located on areas being occupied by indigenous people?        | <input type="checkbox"/> | <input type="checkbox"/> |
| Involve the construction of a dam or weir, or depend on water supplied from an existing dam? | <input type="checkbox"/> | <input type="checkbox"/> |
| Result in a significant change/loss in livelihood of individual?                             | <input type="checkbox"/> | <input type="checkbox"/> |
| Adversely affect the livelihoods and/or the rights of women?                                 | <input type="checkbox"/> | <input type="checkbox"/> |

If you have answered Yes to any of the above. (type here)  
Please describe the measures that the project will take to avoid or mitigate environmental and social impacts (note that appropriate measures may include the preparation of a RAP).

---

What measures will the project take to ensure (type here)  
that it is technically and financially sustainable?

**CONCLUSION**

**Category B:**

- ☐ **There are no environmental or social risks**
- ☐ **Community to be given full responsibility to mitigate environmental risks**
- ☐ **MCAs to provide detailed guidance on mitigation of risks to the community**
- ☐ **Specific advice is required from County governments in the following area(s):**

**[type here]**

☐ **People will be physically or economically displaced, and therefore a RAP is required**

**Completed by: [type here]**  
**Name: [type here]**  
**Position/Community: [type here]**  
**Date: [type here]**

## **SCREENING CHECKLIST REVIEW FORM**

|   | Yes                      | No                       |
|---|--------------------------|--------------------------|
| Has the project proponent selected the correct type and category for this project | <input type="checkbox"/> | <input type="checkbox"/> |

If 'No', please select the correct type of project or activity below:

|                   |   |
|-------------------|---|
| <b>CATEGORY A</b> | <input type="checkbox"/> Policy, legal or strategy document<br><input type="checkbox"/> Dam project greater than 15m in height<br><input type="checkbox"/> Medium-scale water storage structure<br><input type="checkbox"/> Rehabilitation of medium-scale water storage structure<br><input type="checkbox"/> agro Forestry concession with the private sector<br><input type="checkbox"/> Construction of roads, bridges  |
| <b>CATEGORY B</b> | <input type="checkbox"/> Farm forestry or agroforestry, small-scale woodlots and tree nurseries<br><input type="checkbox"/> Small-scale irrigation scheme<br><input type="checkbox"/> Small-scale water storage facility<br><input type="checkbox"/> Spring capping or rural water supply scheme<br><input type="checkbox"/> Small-scale dam (less than 15m in height)<br><input type="checkbox"/> Check-dam<br><input type="checkbox"/> Dykes<br><input type="checkbox"/> Riverbank stabilization<br><input type="checkbox"/> Terracing of farmland<br><input type="checkbox"/> Agricultural interventions<br>Please give more details: (type here)<br><input type="checkbox"/> Support to income generating initiatives<br>Please give more details: (type here)<br><input type="checkbox"/> Other<br>Please give more details: (type here) |

### **CATEGORY B PROJECTS**

Based on the location and the type of project, please explain whether the Proponent's responses are satisfactory:

|  | Yes | No |
|--|-----|----|
|--|-----|----|

|   |                          |                          |
|---|--------------------------|--------------------------|
| Their description of the compliance of the project with relevant planning documents | <input type="checkbox"/> | <input type="checkbox"/> |
| If 'No', please explain: [type here]  |                          |                          |
| Their responses to the questions on environmental and social impacts                | <input type="checkbox"/> | <input type="checkbox"/> |
| If 'No', please explain: [type here]  |                          |                          |
| Their proposed mitigation   | <input type="checkbox"/> | <input type="checkbox"/> |
| If 'No', please explain: [type here]  |                          |                          |
| Their proposed measures to ensure sustainability                                    | <input type="checkbox"/> | <input type="checkbox"/> |
| If 'No', please explain: [type here]  |                          |                          |

## REVIEWER'S COMMENTS

Which course of action do you recommend?

### Category A:

☐ ESMP;      ☐ VGMP;      ☐ RAP;      ☐ PMP

### Category B:

- ☐ There are no environmental or social risks
- ☐ Community to be given full responsibility to mitigate environmental and social risks, as set out in the screening checklist
- ☐ MCAs to provide detailed guidance on mitigation of risks to the community

Specific advice is required from County Officers in the following area(s):

[type here]

- ☐ People will be physically and economically displaced, and therefore a RAP is required

If this differs from the proponent's recommended course of action, please explain:

[type here]

- ☐ Reject

Review form completed by: [type here]

Name: [type here]

Position / Community: [type here]

Date: [type here]

### Annex 3: A Sample of land asset and physical inventory census survey form

#### Socio-Economic Household Datasheet of PAPs

| Interviewer  |  | Signature            |  |
|--|--|----------------------|--|
| Supervisor   |  | (After verification) |  |
|  |  |                      |  |
| Name   |  |                      |  |
| Position of concession in village coordinates                  |  |                      |  |
| -----  |  |                      |  |
| Day / Month / Year   |  |                      |  |
| 1) Head of Extended Family                                     |  |                      |  |
| 2) No. of nuclei families in extended family residential group |  |                      |  |
| 3) Head of household extended family                           |  |                      |  |

#### a) Household Interview

| Relationship to Head of family | Sex |   | Place of Birth | Age | M | Marital status | Residence tenure | Ethnic group | Religion | Educ level | Income earner |    | Economic rating |           |          |
|--------------------------------|-----|---|----------------|-----|---|----------------|------------------|--------------|----------|------------|---------------|----|-----------------|-----------|----------|
|                                | M   | F |                |     |   |                |                  |              |          |            | Yes           | No | Primary         | Secondary | Tertiary |
|                                |     |   |                |     |   |                |                  |              |          |            |               |    |                 |           |          |
|                                |     |   |                |     |   |                |                  |              |          |            |               |    |                 |           |          |

**Head of Family/Household (HOH):** 1. Head of household; 2. Spouse of HOH; 3. Child of HOH; 4. Grandchild of HOH; Parent of HOH; No answer

**Marital status:** 1. Married; 2. Widowed; 3. Divorced; 4. Single; 5. No answer

**Residence tenure:** 1. Permanent residence; 2. Resident absent; 3. Member of non-resident; 4. Visitor; 5. other (specify); 6. No answer

**Educational level:** 1. No formal education; 2. Primary; 3. Secondary; 4. Youth polytechnic; 5. Religious school; 6. College; 7. university

#### Annex 4: Sample Asset Valuation Survey Form

Household ID of Asset Inventory for Project Affected People

Date\_\_\_\_\_

| HH ID | No. of persons in the HH | Total landholding of HH (m <sup>2</sup> ) | Land to be acquired (m <sup>2</sup> ) | Land <sup>14</sup> use type | Loss of % total | Loss of assets                         |  |   | Loss of crops                      |                                    |                 | Loss of other assets | Other losses     |           |                |
|-------|--------------------------|---|---------------------------------------|-----------------------------|-----------------|--|--|---|------------------------------------|------------------------------------|-----------------|----------------------|------------------|-----------|----------------|
|       |                          |   |                                       |                             |                 | Permanent structures (m <sup>2</sup> ) | Temporary structures (m <sup>2</sup> ) | Area of residence land lost (m <sup>2</sup> ) | Fruit trees lost (type and number) | Agric. Land lost (m <sup>2</sup> ) | Other (specify) |                      | Rented residence | Bush lost | Etc. (specify) |
|       |                          |   |                                       |                             |                 |  |  |   |                                    |                                    |                 |                      |                  |           |                |
|       |                          |   |                                       |                             |                 |  |  |   |                                    |                                    |                 |                      |                  |           |                |

<sup>14</sup>Please fill in the type of land: 1. Communal; 2. Privately titled; 3. Public land; 4. Gazetted land; 5. Ranching/Group land; 6. Other (specify)

**Entitlements of PAPs**

| <b>HH ID</b> | <b>Compensation for land</b> |                          |                           | <b>Compensation for structures</b> |                           | <b>Compensation for crops and trees</b> |                          |                           | <b>Compensation for other assets and losses (e.g. Graveyards, wells, businesses, etc.)</b> |                          |                           |
|--------------|------------------------------|--------------------------|---------------------------|------------------------------------|---------------------------|---|--------------------------|---------------------------|--|--------------------------|---------------------------|
|              | <b>Quantity (m²)</b>         | <b>Unit price per m²</b> | <b>Entitlement (Kshs)</b> | <b>Unit price (Kshs per m²)</b>    | <b>Entitlement (Kshs)</b> | <b>Quantity unit</b>                    | <b>Unit price (Kshs)</b> | <b>Entitlement (Kshs)</b> | <b>Quantity unit</b>   | <b>Unit price (Kshs)</b> | <b>Entitlement (Kshs)</b> |
|              |                              |                          |                           |                                    |                           |   |                          |                           |  |                          |                           |
|              |                              |                          |                           |                                    |                           |   |                          |                           |  |                          |                           |



## Annex 5: Sample Grievance Procedure Form

| <b>Grievance Form</b>   |   |  |  |  |
|---|---|--|--|--|
| <i>Grievance Number</i>   |   | <i>Copies to forward to:</i>   |  |  |
| <i>Name of Recorder</i>   |   | <i>White (Original)-Receiver party</i>   |  |  |
| <i>County/Ward/Settlement</i>   |   | <i>Blue (Copy) – Responsible Party</i>   |  |  |
| <i>Date</i>   |   | <i>Green (Copy) – DSI for Database</i>   |  |  |
|   |   | <i>Pink (Copy) – Complainant</i>   |  |  |
| <b>INFORMATION ABOUT GRIEVANCES</b>   |   |  |  |  |
| <i>Define the Grievance:</i>  |   |  |  |  |
|   |   |  |  |  |
| <b>INFORMATION ABOUT THE COMPLAINANT</b>  |   | <b>Forms of Receive</b>  |  |  |
| <i>Name-Surname</i>   |   | <input type="radio"/> <i>Phone line</i>  |  |  |
| <i>Telephone Number</i>   |   | <input type="radio"/> <i>Community/Information meetings</i>  |  |  |
| <i>Address</i>  |   | <input type="radio"/> <i>Mail</i>  |  |  |
| <i>Village/Settlement</i>   |   | <input type="radio"/> <i>Informal</i>  |  |  |
| <i>Ward/County</i>  |   | <input type="radio"/> <i>Other</i>   |  |  |
| <i>Signature of Complainant</i>   |   |  |  |  |
| <b>DETAILS OF GRIEVANCE</b>   |   |  |  |  |
| <b>1. Access to land and Resources</b><br><br>a) <i>Fishing grounds</i><br>b) <i>Lands</i><br>c) <i>Pasturelands</i><br>d) <i>House</i><br>e) <i>Commercial site</i><br>f) <i>Other</i> | <b>2. Damage to</b><br><br>a) <i>House</i><br>b) <i>Land</i><br>c) <i>Livestock</i><br>d) <i>Means of livelihood</i><br>e) <i>Other</i> | <b>3. Damage to Infrastructure or Community Assets</b><br><br>a) <i>Road/Railways</i><br>b) <i>Bridge/Passageways</i><br>c) <i>Power/Telephone Lines</i><br>d) <i>Water sources, canals and water Infrastructure for irrigation and animals</i><br>e) <i>Drinking water</i><br>f) <i>Sewage System</i> | <b>4. Disease or loss of livelihood</b><br><br>a) <i>Agriculture</i><br>b) <i>Animal husbandry</i><br>c) <i>Beekeeping</i><br>d) <i>Small scale trade</i><br>e) <i>Other</i> | <b>5. Traffic Accident</b><br><br>a) <i>Injury</i><br>b) <i>Damage to property</i><br>c) <i>Damage to livestock</i><br>d) <i>Other</i> |

|  |  |  |   |                            |
|--|--|--|---|----------------------------|
|  |  | <i>g) Other</i>                                |   |                            |
| <b>6. Incidents Regarding Expropriation and Compensation</b> | <b>7. Resettlement Process (Specify)</b> | <b>8. Employment and Recruitment (Specify)</b> | <b>9. Construction Camps and Community Relations</b><br><br><i>a) Nuisance from dust</i><br><i>b) Nuisance from noise</i><br><i>c) Vibration due to explosions</i><br><i>d) Misconduct of the project personal/workers</i><br><i>e) Complaints follow up</i><br><i>f) Other</i> | <b>10. Other (Specify)</b> |

## Annex 6: Socio-economic characteristics

Table 4.2: Socio-economic Characteristics

| County     | Population<br>(Numbers)-2009 | Population density<br>(Persons per km <sup>2</sup> ) | Poverty<br>index (%) | Good Roads<br>(%) | Energy- Fuel wood as<br>% of total energy | Improved sanitation (%<br>households 2009) |
|------------|------------------------------|--|----------------------|-------------------|---|--|
| Marsabit   | 291,166                      | 4  | 83.5                 | 20                | 92.5                                      | 34.3                                       |
| Tana River | 240,075                      | 6  | 76.9                 | 42.1              | 97.5                                      | 29.3                                       |
| West Pokot | 512,690                      | 56   | 69.7                 | 29                | 90  | 33   |
| Nyeri      | 693,558                      | 280  | 28.8                 | 78                | 72  | 97.68                                      |
| Busia      | 743,946                      | 437  | 64.2                 | 75                | 97.85                                     | 70   |
| Bomet      | 723,813                      | 355  | 51                   | 25                | 91  | 91.4                                       |

**Source:** County Integrated Development Plan, Kenya Inter agency rapid assessment, 2014

## Annex 7: Some Socio-Economic Indicators to be considered for ECAATP Impact

| Indicator  | Target   |
|--|--|
| <b>HEALTH</b>  |  |
| Incidence of poor health                               | Good Health rate   |
| Rate of contracted diseases especially malaria         | Disease prevention especially malaria and HIV/AIDS   |
| Infant mortality rate                                  | Prevention of infant deaths  |
| Water borne diseases                                   | Non-incidence of water borne disease   |
|  |  |
| <b>SAFETY</b>  |  |
| Accident rate  | Non-increase in accidents due to project interventions   |
|  |  |
| <b>EDUCATION LEVEL</b>                                 |  |
| Literacy rates   | Increase in basic literacy rates of population targeted by intervention  |
| Enrollment at school<br>(primary, secondary, tertiary) | Increased rates of enrollment of both boys and girls at all schooling levels, to average international rates for those targeted by intervention                |
| Number of school leavers                               | Reducing the number of school leavers to average international levels  |
|  |  |
| <b>INCOME LEVELS/WEALTH</b>                            |  |
| Levels of poverty                                      | Elimination of poverty   |
| Total HH income  | Increase in HH income to levels that exceed expenditure and ensure livelihood security   |
| Total HH expenditure                                   | No change or decrease in average expenditure   |
|  |  |
| <b>POPULATION DYNAMICS</b>                             |  |
| Levels of inward migration                             | Manageable levels of inward migration according to carrying capacity (in terms of population, employment opportunities and land availability) of affected area |
| Levels of outward migration                            | Reduce the need for forced outward migration   |
| Level of outward migration of young people (age 16-25) | Reduce the need for forced outward migration of young people (age 16-20)   |

## Annex 9. Matrix of Observations, Comments and Responses on ECAAT Frameworks

|                          | Comments and Observations  | Responses  |
|--------------------------|--|--|
| <b>I ECAAT OVERVIEW</b>  |  |  |
| 1.                       | ECAATP key objectives are based on transformation and expansion regionally on transfer of generated TIMPs. Why is Ethiopia missing from the list of countries involved?              | <ul style="list-style-type: none"> <li>Ethiopia is doing in-country consultations on ECAAT participation</li> </ul>  |
| 2.                       | Why is Nyandarua and Vihiga not among the counties for Indigenous chicken and yet they do well   | <ul style="list-style-type: none"> <li>Piloting in few counties but upscale indigenous chicken technologies in other ECAAT counties</li> </ul>   |
| 3.                       | Uriri sub county in Migori county has been omitted on the list of rice sub counties  | <ul style="list-style-type: none"> <li>Uriri is included for Rice upscaling</li> </ul>   |
| 4.                       | Kilifi County was missing in the list of counties and the focus commodity  | <ul style="list-style-type: none"> <li>Kilifi county is to upscale cassava technologies</li> </ul>   |
| 5.                       | Machakos county not represented in the workshop yet bean commodity will be in Machakos county  | <ul style="list-style-type: none"> <li>Machakos county is a new entrant in the project. Beans program will be coordinated from KALRO Katumani. The coordinator has been involved in project preparation</li> </ul> |
| 6.                       | Rice in Kisumu was in Muhoroni but not in Nyando (Ahero Irrigation Scheme)   | <ul style="list-style-type: none"> <li>The project will cover both Muhoroni and Nyando (Ahero Irrigation Scheme) Sub counties</li> </ul>   |
| 7.                       | Involvement of the County Governments in the project coordination and implementation   | <ul style="list-style-type: none"> <li>Coordination and implementation units will be established at the counties.</li> </ul>   |
| 8.                       | Inclusion of other livestock species i.e. Meat goats and Bees  | <ul style="list-style-type: none"> <li>The selection of value chains was done through a criteria that focused more on the importance of the commodities in the region</li> </ul>                                   |
| 9.                       | Can the funding be channeled through the Sub County based accounts (EAAPP Model) instead of the county treasury?   | <ul style="list-style-type: none"> <li>The project will follow treasury guidelines through the IFMIS system.</li> </ul>  |
| <b>II ESS, VGM, ESMF</b> |  |  |
| 10.                      | Why not include bee keeping in conservation of forests and water banks   | <ul style="list-style-type: none"> <li>The selection of value chains was done through a criteria that focused more on the importance of the commodities in the region</li> </ul>                                   |
| 11.                      | What about bio gas production for environmental conservation   | <ul style="list-style-type: none"> <li>Biogas Production/Installation is integrated in the dairy and poultry value chains</li> </ul>   |
| 12.                      | In transformation agricultural productivity is it possible to do irrigation in rain-fed areas during the dry spell for pasture production in areas where land is critically limiting | <ul style="list-style-type: none"> <li>The project will support conservation agriculture and limited irrigation</li> </ul>   |

|     | Comments and Observations   | Responses  |
|-----|---|--|
| 13. | River Water contamination through use of faulty pumps   | <ul style="list-style-type: none"> <li>• This can be handled Under Environmental Assessment (OP/BP 4.01)</li> <li>• Need for regular servicing of the pumps</li> </ul>   |
| 14. | How can Environmental and Social Safeguards be integrated during implementation of the project?   | <ul style="list-style-type: none"> <li>• The frameworks are meant to guide in mainstreaming of ESS issues in the project implementation</li> </ul>   |
| 15. | Can ESS come as an output during Dairy upscaling, and also incorporate NEMA   | <ul style="list-style-type: none"> <li>• NEMA was invited as one of the stakeholders</li> <li>• The EIA reports have to cleared/approve by NEMA for implementation</li> <li>• The frameworks will be shared with NEMA</li> </ul> |
| 16. | Invasive species, what to be done after introduction  | <ul style="list-style-type: none"> <li>• All the projects will be screened (positive or negative impact) and mitigation measures put in place.</li> </ul>  |
| 17. | What are ESMF mitigation measures to be undertaken  | <ul style="list-style-type: none"> <li>• The frameworks (ESMF) are general guidelines and relevant instruments/plans will be developed on need basis (once the policy is triggered)</li> </ul>                                   |
| 18. | Definition of VMG need to be revised so as not to target community but groups (Are the VMG only based on tribal groups or also from major communities?) | <ul style="list-style-type: none"> <li>• VMGs includes women and youth (headed households), people with disabilities, people suffering from terminal illness (HIV-AIDS), the aged, widows/widowers and orphans</li> </ul>        |
| 19. | Are the VMG also supposed to be engaged in project implementation? Direct benefit?  | <ul style="list-style-type: none"> <li>• They should be involved with targeted interventions</li> </ul>  |
| 20. | Can the child headed, widows and sick (e.g. PLWA'S) be termed as VMG  | <ul style="list-style-type: none"> <li>• Yes</li> </ul>  |
| 21. | In view of political/tribal profiling for our Country, has the policy addressed this in the resettlement plans  | <ul style="list-style-type: none"> <li>• The host population should be involved in the development of the Resettlement Plans and the entire resettlement program</li> </ul>  |
| 22. | Among the VGMs are Sangwer in Elgeyo Marakwet, live outside the project area; how can they be involved in the project?                                  | <ul style="list-style-type: none"> <li>• They should be involved if they are within the project area/sites</li> </ul>  |
| 23. | A clear framework of how grievances should be handled, at what level and feedback   | <ul style="list-style-type: none"> <li>• The project will use existing structures in addressing grievances at the county and sub county level</li> </ul>   |

**Annex 11: Potential minority communities in ECCATP Counties/sub counties that meet OP/BP 4.10 criteria**

| <b>Name</b>        | <b>Other Names<br/>(derogatory)</b> | <b>Estimated<br/>Population<sup>15</sup></b> | <b>Livelihood<sup>16</sup></b>       | <b>Counties<sup>17</sup></b>          |
|--------------------|-------------------------------------|--|--------------------------------------|---------------------------------------|
| <b>1. Sengwer</b>  | Charangany                          | 50,000                                       | HG/Farmers                           | Elgeyo-Marakwet,                      |
| <b>2. Ogiek</b>    | Dorobo                              | 40,000                                       | HG/Farmers                           | Baringo, Elgeyo<br>Marakwet,          |
| <b>3. Waata</b>    | Wasanye                             | 13,000                                       | HG/Farmers                           | Lamu, Garissa, Tana-<br>River, Isiolo |
| <b>4. Ilchamus</b> |                                     | 33,000                                       | Fishing/Farmers/<br>Livestock Keeper | Baringo                               |
| <b>5. Endorois</b> | Dorobo                              | 60,000                                       | Fishing/Farmers/<br>Livestock Keeper | Baringo                               |
| <b>6. Boni</b>     |                                     |  | Fishing<br>Pastoralists              | Garissa                               |
| <b>7. Malakote</b> |                                     |  | Pastoralists                         | Garissa                               |
| <b>8. Maasai</b>   |                                     | 666,000                                      | Pastoralists                         | Kajiado,                              |

<sup>15</sup> Internet based – several sites

<sup>16</sup> Source: ERMIS Africa Ethnographic Survey of Marginalized Groups, 2005-2012

<sup>17</sup> Ibid.

## Annex 12: Sample Template Budget for a RAP

|   | Amount or number | Total estimated cost | Agency responsible |
|---|------------------|----------------------|--------------------|
| <b>Asset acquisition</b>                |                  |                      |                    |
| Land                                    |                  |                      |                    |
| Structure                               |                  |                      |                    |
| Crops and economic trees                |                  |                      |                    |
| Infrastructure                          |                  |                      |                    |
| <b>Land Acquisition and preparation</b> |                  |                      |                    |
| Land                                    |                  |                      |                    |
| Structures                              |                  |                      |                    |
| Crops and other                         |                  |                      |                    |
| Community Infrastructure                |                  |                      |                    |
| <b>Relocation</b>                       |                  |                      |                    |
| Transfer of possessions                 |                  |                      |                    |
| Installation costs                      |                  |                      |                    |
| <b>Economic rehabilitation</b>          |                  |                      |                    |
| Training                                |                  |                      |                    |
| Capital Investment                      |                  |                      |                    |
| Technical Assistance                    |                  |                      |                    |
| <b>Monitoring</b>                       |                  |                      |                    |
| <b>Contingencies</b>                    |                  |                      |                    |
| <b>TOTAL</b>                            |                  |                      |                    |



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