

THE UNITED REPUBLIC OF TANZANIA



Ministry of Energy and Minerals

**RESETTLEMENT POLICY FRAMEWORK**

**UPDATED FOR THE ADDITIONAL FINANCING FOR THE SUSTAINABLE MANAGEMENT OF  
MINERAL RESOURCES PROJECT**

February, 2015

**MUHTASARI WA MWONGOZO WA KISERA KUHUSU MAKAZI YA WATU WAKATI WA UTEKELEZAJI WA MRADI WA USIMAMIZI ENDELEU WA RASILIMALI YA MADINI TANZANIA (Sustainable Management of Mineral Resources Project -SMMRP II)**

Mradi wa usimamizi endelevu wa rasilimali ya madini Tanzania (SMMRP) ni mradi wa miaka mitano unaofadhiliwa na Benki ya Dunia kuanzia katikati ya mwaka 2009. Kutokana na mafanikio ya Mradi wa awali Serikali kupitia Wizara ya Nishati na Madini imo katika majadiliano na Benki ya dunia juu ya kuongeza muda wa utekelezaji wa mradi na kuongea na kupanua kazi kwa awamu ya pili (SMMRP-II) ili kuhakikisha watanzania wananufaika na sekta ya madini. Mradi huu unategemewa kuanza mwezi wa Sita, 2015 na utakuwa wa kipindi cha miaka mitatu na nusu (3.5).

>> Madhumuni ya mradi yanaendelea kuwa ni kuongeza uwezo wa serikali katika kusimamia sekta ya madini ili kuboresha manufaa ya kijamii na kiuchumi yatokanayo na uchimbaji wa madini nchini Tanzania, na kuvutia wawekezaji wa ndani na nje. Sambamba na uongezaji wa muda wa utekelezaji mradi, inapaswa kupitia na kuhuisha miongozo inayohusu masuala ya mazingira na makazi ya watu katika maeneo ya mradi ulioandaliwa katika hatua za awali za mradi huu. Japokuwa uhamishwaji watu hautarajiwi wakati wa kutekeleza mradi wa SMMRP-II, ni muhimu kuwa na Mwongozo wa jumla wa namna ya kushughulikia suala la makazi mbadala unaoendana na sheria ya Ardhi ya Mwaka 1999 na Sera Na. 4.12 (Involuntary Resettlement)..

>> Utekelezaji wa SMMRP-II utaendelea kujumuisha mambo makuu manne kama ilivyokuwa katika hatua ya kwanza yakiwa ni: a) Kuongeza Manufaa yatokanayo na Sekta ya Madini kwa Tanzania; b) Kuimarisha usimamizi wa sekta na uwazi katika uchimbaji madini ; c) Kuvutia uwekezaji katika sekta ya madini; na d) Kuimarisha usimamizi bora wa mradi. Wizara ya Nishati na Madini kupitia Idara ya Madini ndio itaendelea kuwa msimamizi wa mradi huu.

>> Mwongozo huu unaangalia mifumo ya kisera na kisheria iliyopo nchini, na miongozo ya Benki ya Dunia inayopaswa kuzingatiwa wakati wa utekelezaji wa mradi wa SMMRP -II. Sheria zilizopitiwa zinajumuisha Sheria ya Madini ya mwaka 2010, Sheria ya Ardhi ya 1999, Sheria ya Ardhi Vijijini ya 1999, Sheria ya Upatikanaji wa Ardhi ya 1967, Sheria ya kuondoa makaburi ya 1969, Kanuni za uondoaji wa makaburi Vijijini. Aidha, Sera zilizoangaliwa ni Mkakati wa kupunguza umaskini, sera ya kilimo na ufugaji na sera ya misitu. Sheria za aina mbali mbali zinasimamia uchimbajiwa madini na masuala ya fidia. Sio sheria zote zina mwelekeo mmoja kuhusu suala la fidia. Kuna tofauti kati ya Sheria za Tanzania na miongozo ya Benki ya Dunia kuhusu taratibu za fidia na makazi mbadala. Mwongozo wa Benki ya Dunia ni mpana zaidi katika masuala ya fidia na makazi mbadala kwa kuwa mahitaji ya watu walioathiriwa na mradi yanaangalia fidia kwa thamani ya kurudishia na si thamani ya soko, inatoa ushauri juu ya mahitaji na kusisitiza kuwa muendeleza mradi ana jukumu la kuonyesha manufaa ya mradi huo kwa walioathiriwa na mradi. Mahitaji ya kiutaratibu kuhusu mpangilio na utekelezwaji wa makazi mbadala yanapatikana katika taarifa hii. Majukumu ya muendelezaji, Serikali na walioathiriwa na mradi pia yameelezwa. Kanuni ambazo zitatumika katika utaratibu wa makazi mbadala zimeainishwa katika mwongozo huu. Kanuni hizo ni:

- \* Kanuni 1: Uhamishaji watu unapaswa kuepukwa au kupunguzwa
- \* Kanuni 2: Mashauriano na ushirikishwaji bayana kwa wote wanaohusika au kuathiriwa na mradi ni lazima ufanyike
- \* Kanuni 3: Mwongozo wa awali wa makazi mbadala utatengenezwa
- \* Kanuni 4: Msaada katika kuhamishwa lazima utolewe
- \* Kanuni 5: Uhalali wa fidia lazima ujadiliwe

- \* Kanuni 6: Makazi mbadala yaende sambamba na uboreshwaji wa huduma za jamii kuwanufaisha walioathiriwa.
- \* Kanuni 7: Makundi tofauti ya kijamii lazima yapewe mahitaji yake
- \* Kanuni 8: Makazi mbadala lazima yaonekane kama gharama za awali za mradi
- \* Kanuni 9: Utaratibu wa usimamizi wa kujitegemea lazima uwepo

Hatua za utekelezaji wa mpango wa makazi mbadala kwa SMMRP-II zitazingatia yafuatayo:

- \* Tathmini ya awali ya shughuli zitakazosababisha uhamishaji
- \* Uanzishwaji wa taratibu za uwazi za mashauriano
- \* Utaratibu wa kushughulikia malalamiko
- \* Tathmini ya maeneo ya makazi mbadala
- \* Utaratibu wa upangaji wa mafao na majadiliano kuhusu fidia
- \* Utaratibu wa kuthamini mali zitakazoathiriwa na mradi.
- \* Uchambuzi wa waathirika wa mradi na stahili zao chini ya Mpango wa makazi mbadala.
- \* Namna ya kufanya tathmini ya makazi
- \* Mahitaji ya kurudisha vyanzo vya mapato na mikakati ya uendelezwaji wa jamii
- \* Mahitaji ratiba na bajeti ya utekelezwaji wa mpanganon wa uhamishaji (Resettlement

Action Plan (RAP))

- \* Utayarishaji wa RAP
- \* Uanzishwaji wa makazi mbadala
- \* Usimamizi na tathmini ya mara kwa mara ya mpango wa makazi mbadala

Taarifa hii inamalizia kwa kutoa mapendekezo ya namna kadhaa bora za zitumikazo sehemu nyingine duniani na kuleta mafanikio makubwa kwenye utekelezwaji wa makazi mbadala: kwa kuwaacha walioathiriwa na mradi katika hali njema kiuchumi, katika hali imara kijamii na katika namna ambayo wataweza kujiendesha wenyewe baada ya muda. Namna hizi bora za uwezeshaji ni hizi zifuatazo:

- \* Uelewa wa kutosha juu ya mambo yahasuyo makazi mbadala
- \* Muundo sahihi wa kisheria na kisera katika ngazi ya kitaifa
- \* Ufadhili wa kutosha
- \* Uwezo wa kutosha, ukijumuisha uzoefu kuhusu makazi mbadala
- \* Makubaliano na mashauriano ya uwazi na walioathiriwa na mradi
- \* Mpango, utekelezaji na usimamizi madhubuti na wa uhakika
- \* Uhusianisho wa mpango wa makazi mbadala kiuchumi na kisiasa
- \* Ridhaa muhimu za kisiasa kuhakikisha kuwa vipengele vya uwezeshaji hapo juu vinapatikanana kuwa makazi mbadala yanatekelezwa kikamilifu.

Mwongozo huu unajumuisha viambatisho kadhaaambavyo vimeandaliwa ili kusaidia uendelezwaji wa mpango sahihi wa makazi mbadala kwa mradi huu. Viambatisho hivyo vinajumuisha:

- | Mahitaji muhimu yahasianayo na utaratibu wa kupokea maoni na ushauri
- | Mwongozo wa uthibitishwaji wa aina za mali zilizoathiriwa na mradi
- | Uwezekano wa kurudisha vyanzo vya mapato kwa walioathiriwa na mradi
- | Mpango yakinifu na bayana wa makazi mbadala.

## EXECUTIVE SUMMARY

The Tanzanian Ministry of Energy and Minerals (MEM) is nearing the close of the Sustainable Management of Mineral Resources Project (SMMRP) whose Project Development Objective is “To strengthen the Government’s capacity to manage the mineral sector, improve the socio-economic impacts of large and small-scale mining for Tanzania and Tanzanians, enhance private local and foreign investment”. The project was formulated in line with the national objective to improve overall management of the mineral sector and maximize benefits to the investors and the nation as a whole. The Project will end in June 2015.

Following the success of the SMMRP, the government requested Additional Financing from the World Bank to scale up activities aimed at increasing mineral benefits for Tanzanians. The Additional Financing is anticipated to commence on July 1<sup>st</sup> 2015 with a project life of 3.5 years.

The PDO for the Additional Financing is retained from the original SMMRP project. It further maintains the four original Project components: a) improving the Benefits of the Mineral Sector for Tanzania: Artisanal and Small-scale Mining, Local Economic Development and Skills Development; b) Strengthening Governance and Transparency in Mining; c) Stimulating Mineral Sector Investment; and d) Project Coordination and Management. The Project maintains the original implementing arrangements (the Project Implementing Unit in the Ministry of Energy and Minerals); though new provisions are made to strengthen the participation of the Zonal Mining Offices—due to their central role in monitoring and inspecting artisanal and small-scale mining activities in the respective mining zones—and the State Mining Corporation (STAMICO), who plays a lead role in technical services provision to small-scale miners on behalf of the government.

Activities under the Additional Financing do not anticipate involving acquisition of land or impact on livelihood. . Nonetheless, the Resettlement Policy Framework (RPF) which was prepared under the original project was updated for the AF should Project circumstances change during implementation. The present RPF document provides overall guidance on the process, in accordance to the Tanzanian laws and the principles and policy objective of OP 4.12.

The objectives of the RPF are to:

- Establish the SMMRP resettlement and compensation principles and implementation arrangements;
- Describe the legal and institutional framework underlying Tanzanian approaches for resettlement, compensation and rehabilitation;
- Compare the Tanzanian laws and the World Bank Operational Policy for Resettlement (OP 4.12) and identify the gaps.
- Define the eligibility criteria for identification of project affected persons (PAPs) and entitlements, considering Tanzanian laws and the World Bank OP 4.12.;
- Describe the process for RAP preparation;

- Describe the consultation procedures and participatory approaches involving PAPs and other key stakeholders; and
- Provide procedures for filing grievances and resolving disputes.

It is noted that a Resettlement Action Plan (RAP) would constitute the principle mitigating tool and therefore the RPF is not a substitute for a detailed RAP, should the situation require one.

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## **LIST OF ACRONYMS AND ABBREVIATIONS**

AF	Additional Financing
APA	Affected Persons
ASM	Artisanal and small-scale mining
ASMs	Artisanal and small-scale miners
CDA	Community Development Association
ESIA	Environmental and Social Impact Assessment
ESMP	Environmental and Social Management Plan
IFC	International Finance Corporation
IR	Involuntary Resettlement
LDU	Local Development Unit
MEM	Ministry of Energy and Minerals
NGO	Non Governmental Organization
PAF	Project Affected Family
PAPs	Project Affected Persons
RAP	Resettlement Action Plan
RPF	Resettlement Policy Framework
SIA	Social Impact Assessment
SMMRP	Sustainable Management of Mineral Resources Project
TOR	Terms of Reference
URT	United Republic of Tanzania
WB	World Bank

## DEFINITIONS OF TERMS

Unless the context dictates otherwise, the following terms will have the following meanings:

1. Asset inventory

An inventory of land holdings and immovable improvements (buildings and structures) to assist in determining fair and reasonable levels of compensation.

2. Asset survey

The asset survey will determine the assets owned by affected individuals, households or communities. This survey will provide the baseline information needed in order to determine the compensation package provided to each person.

3. Census

A field survey carried out to identify and determine the number of Project Affected Persons (PAPs) as a result of land acquisition and related impacts. The census provides the basic information necessary for determining eligibility for compensation, resettlement and other measures emanating from consultations with affected communities and the local government institutions (LGIs). The information that should be collected includes household demographics, family structure (relation, age, residence status, occupation), and household livelihoods and economic information (income, occupation).

4. Compensation

Payment in kind, cash or other assets given in exchange for the acquisition of land including fixed assets thereon as well as other impacts resulting from Project activities. In assessing compensation of the land acquired, the concept of opportunity shall be based on the following; market value of the real property, disturbance allowance, transport allowance, loss of profits or accommodation, cost of acquiring or getting the subject land, any other cost loss or capital expenditure incurred to the development of the subject land and interest at market rate will be charged if payment of compensation is delayed.

5. Completion audit

This is an audit performed to evaluate whether the RAP has been implemented according to the resettlement policy framework and that it is in compliance with domestic laws (if applicable) and International Best Practice.

6. Consultation

Extensive consultation represents one of the cornerstones of the resettlement planning program. It involves the timely dissemination of information regarding the Project and its resettlement to affected stakeholders. Furthermore it allows for a free flow exchange of information that gives stakeholders a chance to air their concerns and have a voice in the actual planning of the resettlement.

As part of the sector wide assessment, a Strategic Environmental and Social Assessment (SESA) of the Minerals Sector in Tanzania was prepared in 2013. Under SESA a number of consultation through workshops in key areas took place and a summary of the issues raised by the stakeholders, including the affected communities, is discussed later in this RPF under consultation. The SESA is a component of the Ministry of Energy and Minerals (MEM)

Project for the Sustainable Management of Mineral Resources. Its primary goal is to assist in raising environmental, social and economic standards in the minerals sector by influencing the priorities of the major institutions and the ways in which policy, legislation and regulations are put into effect.

7. Consultative Forum

The Consultative Forum is the primary channel of communication between the developer and the Government of Tanzania on the one hand and the affected people on the other. The Consultative Forum will initially act as the primary advisory body in all matters relating to resettlement, although it will have no statutory standing.

8. Cut-off date or Moratorium

Refers to a day on and beyond which any person who occupies land required for Project use, will not be eligible for compensation. The date is often the day when the assessment of persons and their property in the Project area commences. Development of the area covered under a moratorium is prohibited.

9. Environmental Impact

An effect (both positive and negative) on an environmental resource or value resulting from infrastructure development projects.

10. Environmental and Social Impact Assessment (ESIA)

A systematic procedure for enabling the possible environmental and social impacts of development projects to be considered before a decision is made as to whether the Project should be given approval to proceed.

11. Entitlement Matrix

A document agreed between the Project principal, through their implementing agents, and the Project Affected People (usually through the medium of the Consultative Forum) that defines the principles for asset valuation and subsequent compensation and the coverage of protection of eligible parties under the terms of the resettlement plan.

12. Grievance Redress

A procedure for the submission of grievances and guidelines for their resolution.

13. Host Communities

Communities receiving resettled people as a result of involuntary resettlement activities.

14. Independent monitoring

External Independent Monitoring takes the form impact monitoring against agreed criteria/indicators. The external monitoring component will evaluate socio-economic conditions of the PAPs against the baseline data established prior to the resettlement through baseline socio-economic surveys. This will allow for corrective actions to be put in place where PAPs have been subject to impoverishment induced by Project operations.

15. Internal Monitoring

Internal monitoring, sometimes called performance monitoring, is an internal management function allowing the Project management (or agency elected to implement the RAP) to measure physical progress against milestones set out in the RAP.

16. Involuntary

Actions that may be taken without the displaced person's informed consent or power of choice.

17. Involuntary Displacement

The involuntary acquisition of land resulting in direct or indirect economic and social impacts caused by: Loss of benefits from use of such land; relocation or loss of shelter; loss of assets or access to assets; or loss of income sources or means of livelihood, whether the Displaced Persons has moved to another location or not.

18. Involuntary Land Acquisition

The possession of land by government or other legally empowered agencies for the purposes of the Project. 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.

19. Involuntary Resettlement (IR)

The unavoidable displacement of people and/or impact on their livelihood, assets and common property resulting from projects that create the need for rebuilding their livelihood, sources of income and asset bases.

20. Land acquisition

The possession of or alienation of land, buildings or other assets thereon for purposes of the Project.

21. Monitoring

The process of repeated observations and measurements of environmental and social quality parameters to assess and enable changes over a period of time. Monitoring primarily involves the systematic use of information to determine the extent to which plans are being implemented effectively.

22. Moratorium

Government-implemented or endorsed directive for the suspension of activity/ies.

23. Project affected persons (PAPs)

PAPs include the persons, household, firm, private or public institution to be identified by the baseline information collected for each of the Inventories and Resettlement Plans (RPs) who, on account of the execution of the Project, have experienced or would experience direct economic and social impacts because of the involuntary taking or voluntary

contribution of their land and other assets under the Project, regardless of whether or not the said Project Affected Persons physically relocate.

24. PAPs Without Legal Title

PAPs without legal title are occupants of land and housing without legal ownership rights and individuals or groups of people with shops conducting business in the immediate Project areas without official registration and who will be adversely impacted by the Project through displacement. PAPs without legal title are entitled to compensation provided their assets affected by the Project were documented in the pre-project census prior to the Cut-Off date.

25. Project area

The land area in which the designated SMMR Project activities are to occur – expected to include the Project footprint and neighbouring area.

26. Project

A planned mining or related activity undertaken in support of the SMMRP II Project, also referred to as the SMMRP II or “Project” for simplicity.

27. Public Involvement

This refers to the dialogue encompassing consultation and communication between a SMMR Project principal, through their implementing agents, and the public. It includes dissemination, solicitation and presentation of information.

28. Rehabilitation/Resettlement

A term often used to describe the process of re-establishing lifestyles and livelihoods following resettlement. The term is also used to describe construction works that bring a deteriorated structure back to its original conditions.

29. Rehabilitation Assistance

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 and Displaced Persons to improve their living standards, income earning capacity and production levels; or at least maintain them at pre-project levels.

30. Relocation

The physical displacement of people, usually without the mitigatory component that constitutes resettlement.

31. Replacement cost

Cost to replace an asset. This is not the same as market cost that vary under conditions of supply and demand.

32. Resettlement

Resettlement refers to all measures taken by the SMMR Project principal, through their implementing agents, to mitigate any and all adverse social impacts of the Project on the PAPs, including compensation for lost assets and incomes and the provision of other entitlements, income rehabilitation assistance and relocation, as needed.

### 33. Resettlement Action Plan

It is a resettlement instrument (document) to be prepared when program locations are identified. In such cases, land acquisition leads to physical displacement of persons, and/or loss of shelter, and /or loss of livelihoods and/or loss, denial or restriction of access to economic resources. RAPs are prepared by the party impacting on the people and their livelihoods. RAPs contain specific and legal binding requirements to resettle and compensate the affected party before implementation of the Project.

### 34. Resettlement Assistance

Measures to ensure that Project Affected Persons and Displaced Persons who may require to be physically relocated are provided with assistance during relocation, such as moving allowances, residential housing or rentals whichever is feasible and as required, for ease of resettlement.

### 35. Resettlement Policy Framework

Resettlement Policy document that sets out the conditions under which resettlement will take place. This is usually a contextual document that defines the parameter under which the Project specific Resettlement Action Plan (RAP) will be constructed.

### 36. Screening

‘Screening’ may be defined as a pre-feasibility level assessment of the Project and resettlement. This is necessary in order to provide some understanding of the scope of the likely resettlement, and to provide a preliminary analysis of the resettlement and defining a ‘way forward’ for the resettlement process. SMMR Project implementing agents

Individual companies, consultants or other agents appointed by the Ministry of Energy and Minerals (MEM) that will explore, develop or implement a specific component of the SMMR Project. In this context these are the agents who through the activities of the SMMRP-II may be the causative agents of the need to resettle people.

### 37. The Project principal

The project principles will be the MEM. MEM will be responsible for the identification project activities, appointment of suitable implementing agents and monitoring thereof. The SMMR Project principal will provide the financial resources to the implementing agents

necessary for the resettlement and compensation process and will provide guidance to implementing agents/consultants and supported miners/communities...

### 38. Social Impact

An effect (positive or negative) on a social issue resulting from development projects.

### 39. Stakeholders

Those who have an interest in Project development and who will be involved in the consultative process, and includes any individual or group affected by, or that believes it is affected by the Project; and any individual or group that can play a significant role in shaping or affecting the Project, either positively or negatively, including the host community/population.

### 40. Sustainable Management of Mineral Resources Project SMMRP– (or the Project)

In the context of the RPF this is “The Project under additional financing.”

### 41. Vulnerable Groups

Vulnerable groups include those distinct groups of people who might suffer disproportionately or face the risk of being marginalized by the effects of resettlement, and specifically include:

- Poor and very poor people;
- Ethnic minorities;
- Mentally and physically handicapped people or people in poor physical health;
- Infants, children and women;
- Households without security of tenure or with tenure status.

## 1 INTRODUCTION

### Background on Artisanal and Small-Scale Mining in Tanzania

The Government of Tanzania, under its National Strategy for Growth and Poverty Reduction (MKUKUTA), is committed to economic growth and reduction of poverty, improvement in the quality of life and social well-being, and improved national governance and accountability to its current population and future generation. The country's rich mineral endowment has long been considered as a potential source of growth and poverty reduction. Accordingly, the World Bank has been supporting government's institutional and policy reforms in the sector over the past four decades. During the mid-1980s, the support focused on building the geological infrastructure required to identify and assess the mineral resources of the country. This was followed by a loan in the early 1990s to promote the sector and attract Foreign Direct Investment (FDI) through policy and regulatory reforms. The current project, SMMRP, which became effective in 2009, has supported further geological work, strengthened government capacity to manage the sector, and improved social and environmental management. Due in large part to the reforms supported by the World Bank over the past three decades, Tanzania has experienced over the last decades strong, relatively steady FDI flows in mining, which in turn fueled a robust sector and macro-economic performance, with GDP growth anchored at an average of 7% per annum. Mining currently contributes about 3% to GDP but the sector is expected to grow by 7.7% and to contribute 10% to the GDP by 2025. The proposed Additional Financing focuses on translating the expected mining-induced macroeconomic growth in the next decade into broad-based socio-economic development and shared growth, particularly in rural areas.

Most of the sector growth has come from formal large scale mining (LSM) which boasts seven gold mines. In addition to LSM, significant amounts of gold, copper, silver, and other minerals are produced by the artisanal and small-scale mining (ASM) subsector. People were driven to ASM as an alternative livelihood during the economic decline following the demise of state control and ownership of productive sectors in the 1980s. Indeed, between 1987 and 1997 ASM accounted for almost the entire country's production of gold, copper and silver. This trend was reversed in the 1990s with the inflow of FDI in large-scale mining. Currently, ASM accounts for roughly 10% of Tanzania's gold production but accounts for a disproportionate share of employment (up to 90% of the gold industry total). It is also a significant source of gemstones, copper ore, iron ore, tin, bauxite, industrial minerals and building materials. Figures provided by the MEM indicate that between 700,000 and 1 million people are involved in this activity, including tens of thousands of men, women and children along the value chain. Typically, the activity generates at least three jobs for every person involved. However it involves informal arrangements and is associated with severe social, environmental, safety and security risks.

ASM is spread across ten zones delineated by the government, most of which is set aside for ASM. Roughly half of this total labor figure can be found in two key gold belt areas: Lake and Central Western zones. Accordingly, to date the SMMRP project has focused a critical number of activities to support the government's ASM strategy in these areas. However over the past two years, new ASM areas have emerged in the South Western and Southern zones. The potential and challenges of ASM



were recognized in the Mineral Sector Policy of 1997, and the government has since undertaken a number of initiatives to improve and rationalize the subsector, particularly in terms of regularization of the sector, and providing technical and financial assistance.

The reforms supported under the original Project underscored the potential for ASM, leading the government to prioritize the activity and commit its own budgetary resources to provide technical and financial incentives for the orderly development of ASM. At the same time, legal and policy reforms for LSM resulted in significant improvements in the policy environment (increase in the Tanzania's Fraser Institute policy perception index by over 10 points from 32.4 points in 2010 to 43.0 points in 2013) alongside increases in annual mineral production statistics, such as gold production reaching 40 metric tons per year, mining revenues quadrupling from US\$102.1 million when the project started in 2009 to US\$468.2 million in 2012, and mineral exports peaking at 44.8% of total exports in 2011. As stated in the section II above, these positive developments in the mining sector contributed to the country's robust economic growth over the past decade.

However, the benefits of LSM in terms of poverty reduction and shared prosperity have been below expectations. In particular, the employment impact of large-scale mining was quite modest in relative terms, despite an impressive growth in absolute terms (from 1,781 people in 1997 to 15,000 in 2011). Equally modest was the reduction of rural poverty which afflicts 83% of the estimated 13 million Tanzanians living below the poverty line. In 2001 when mining revenues began to flow, the rural poverty rate was about 39%, but by 2013 it had decreased by only five percentage points to about 34%. During the same period, the total number of poor increased from about 12 million people to 13 million people. The suboptimal poverty-reduction impact of mining has prompted to government to shift its approach from boosting sector growth to improving socio-economic outcomes. To this end, the Government has adopted a two-prong approach: (i) improving the linkages of LSM with local communities through better integration of corporate social responsibility programs and local development planning in mine-affected areas; and (ii) encouraging the formalization and sustainable development of ASM as a means of boosting local entrepreneurship and employment in mining.

### **The project and project description**

The Additional Financing will be for 3.5 years, to commence July 1<sup>st</sup> 2015. It will finance the costs associated with scaling up the developmental effectiveness of the original Project by further strengthening the socio-economic component of the original Project to ensure greater shared growth and poverty reduction.

To this end, the Additional Financing would still aim "to strengthen the Government's capacity to manage the mineral sector, to improve benefits for Tanzania and Tanzanians, and to enhance private local and foreign investment" as in the original project, but scales up the activities which improve benefits for Tanzania and Tanzanians. The scale up would address the following challenges: difficulty in identifying suitable geological environment for artisanal miners, inadequate training and demonstration sites for small-scale miners, and lack of knowledge in value addition (faceting, carving and jewellery), marketing and financial access.

The Project components, and the activities, are described below.

*Component A: Improve the Benefits of the Mineral Sector for Tanzania by addressing Small-scale and Artisanal Mining, linkage of the mineral sector with local economies and development of human resource for the mineral sector.* Activities under this component focus on capacity building, whether to government or small-scale miners as the beneficiaries.

#### Component A.1           Centers of Excellence

The establishment of Centers of Excellence in mining hot spots throughout the country serve as catalysts for the technical, financial, environmental and social transformation of ASM. Seven centers have been identified based on the importance of ASM operations, their potential to become viable and environmental sound growth poles for local small- and medium-scale mining enterprises, and the degree to which environmental and social risks could be managed. All areas are already delineated by the government, in the footprint of formal artisanal mines and government centers. No new private or public land will be needed under the AF as a result. This sub-component combines on-site training in existing Zonal Mine Offices (ZMO) with on-site demonstration activities in established mines owned by the government agency, STAMICO. The Demonstration sites will model environmentally-sound processing techniques, with emphasis on alternatives to mercury use. The ZMOs are in: Musoma, Songea, Mbeya, Geita, Mwanza, Kahama, Matwara, and Mpanda<sup>1</sup>. Support through the Project to the ZMOs will include: (i) the extension of existing office facilities to create space for classrooms, conference rooms, information centers, workshops, all of which will be done within the existing centers; (ii) the provision of demonstration materials; (iii) the preparation and dissemination of training manuals; and (iv) the training of trainers. Demonstrating sites are in: Buhemba, Mbesa (Tunduru), Chunya (Itumbi), Rwamgasa, Keyrwa, Katente, and Kaparamsenga. These demonstrating sites will benefit from the Project with upgrading of existing processing technology, as follows: mercury-free processing; mercury abatement treatments; and carbon separation for VAT leaching. The purpose of the demonstrating site is to provide small-scale miners, who benefit from training conducted in the ZMO, with hands-on experience in technology use.

#### Component A.2           Geological Ground Works

The requested AF will support targeted geological ground works in ASM areas that benefited from airborne surveys under the original Project. No further airborne survey work is to be conducted. The purpose is to provide small-scale miners with geological information that will guide improved mine development on the existing Primary Mining Licenses and only in two the demarcated sites in Mtwara and Mpanda . By further confirming geological prospectivity, the government can better assist Primary Mining License (PML) holders to develop model small-scale mines conforming to international best practice and national ASM regulations. The Geological Survey of Tanzania (GST) will work directly on sampling and testing in this target area, and will provide the PML holders with basic training on data interpretation. The Geological Survey of Tanzania (GST) will perform works

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<sup>1</sup> A map of the project sites is included in the RPF

under this sub-component. Areas targeted correspond with the seven mining zones under Component A.1.

#### Component A.3            Small Grants to Small-Scale Miners

The requested AF scales up the current Small Grants Program under the Project, extending geographic eligibility to all seven zones mentioned in Component A.1. Small grant activities allow miners to upgrade technology on sites, to undergo training on specific mine skills, and to undertake organizational and business development training. A 30% quota for women beneficiaries in the Small Grants Program is retained, as was in the original Project. The management of the Small Grant Program will draw on the financial services of the Tanzania Investment Bank Ltd. who handles procurement and fiduciary aspects of the Small Grants Program under a contract with the Ministry of Energy and Minerals.

#### Component A.4            Value Addition

The main beneficiary of this sub-component is the Tanzania Gemological Center (TGC). The aim is to support the transformation of TGC into a regional hub for training and marketing of gemstones. The activities supported include: (i) training and support to enable Tanzanians to work independently in value added activities and become investors in this sector; (ii) piloting initiatives for “fair trade” in ASM products; (iii) financing some costs related to the Tanzania International Gem Show which draws together gemstone traders and international buyers to showcase Tanzanian products for export into the world's gem markets; and (iv) assisting to TGC to build strategic partnership for capacity building and marketing with world-class gem training and marketing centres in Asia and America.

#### Component A.5            Integrating Mining Community Development Priorities into Local Government Planning

The main beneficiary is local government in the seven districts covered by the Additional Financing. The objective is to scale up of the linkages program between mining and the local economy through the following activities: (i) assessing budgetary structures in certain districts, and piloting the mainstreaming of mining into strategic planning at district level in the areas covered by the project; (ii) developing policies and procedures for local government provision of social services in ASM areas; (iii) development of community-driven development projects; and (iv) assessment of local content opportunities and preparation of local procurement strategies aimed at enabling entrepreneurs to provide goods and services to large and medium scale mines.

### *Component B: Strengthening Governance and Transparency in Mining*

B.1        Several institutions will benefit from this sub-component aimed at addressing regulatory gaps and strengthen the legal framework. The Tanzania Mineral Audit Agency (TMAA) and Tanzania

Revenue Authority (TRA) will work to integrate ASM operations into the tax revenue collection model. The Ministry of Energy and Minerals will complete a number of outstanding regulatory gaps, namely: (i) its mine closure policy and Environmental Protection Plan for ASM; (ii) data integration using the platform of the new online licensing system, (iii) strengthening the mine inspection procedures; (iv) preparing the implementation regulations of the new Explosives Act, and (v) preparing the implementation of the regulations of the new Value Addition Act Bill. The Tanzanian EITI National Committee will conduct a value chain audit on ASM in order to mainstream ASM into the revenue reporting procedures of the EITI process.

*Component C: Stimulate Mineral Sector Investment.* No new activities are anticipated under this Component.

Please refer to Appendix G for comprehensive table on Project Activities, their potential social impacts and the proposed mitigation measures.

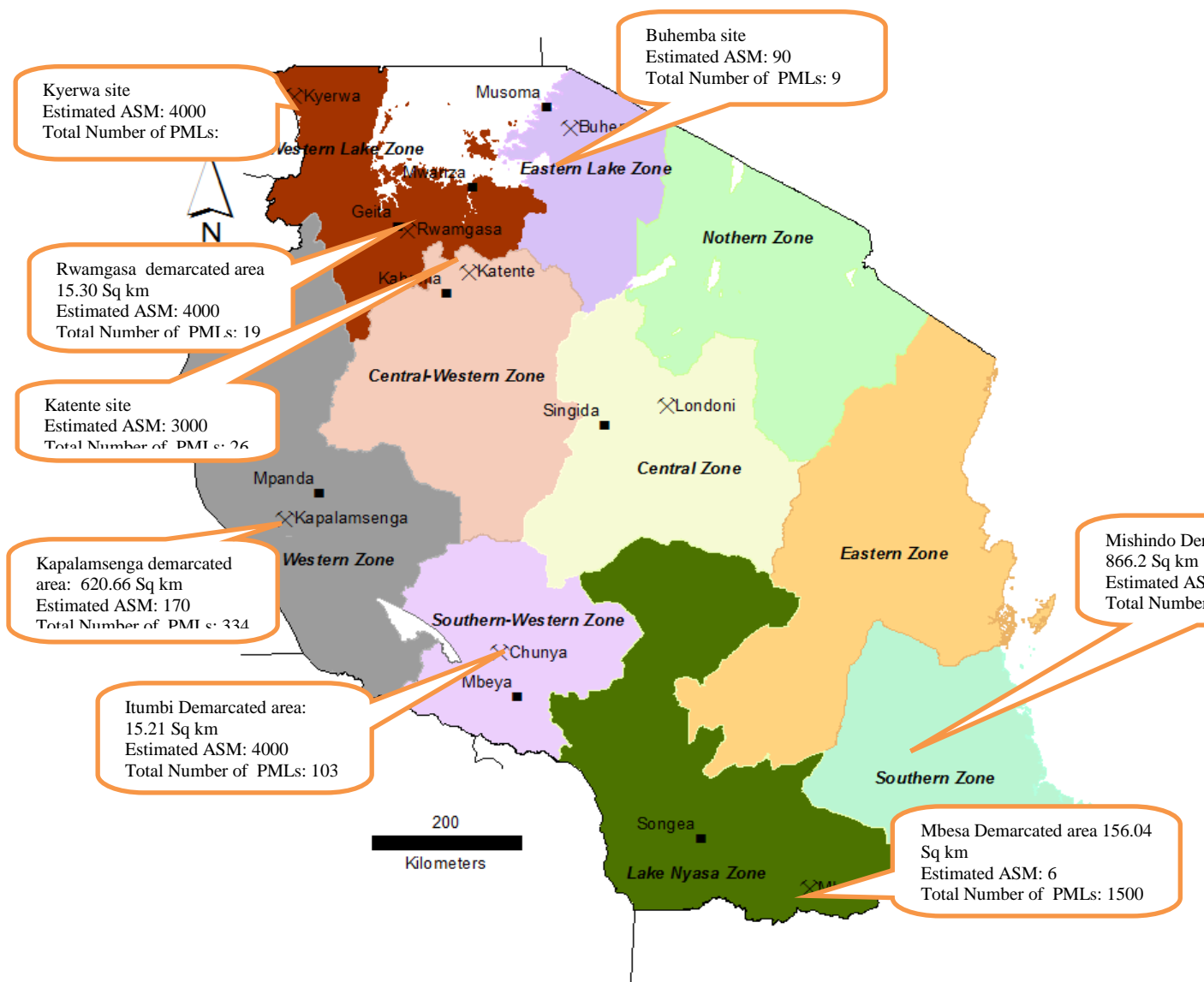
### **Brief Description of the Project Activity Areas**

The Project intends to implement activities in seven of the ten mining zones as established by the Ministry of Energy and Minerals. A map can be found in Appendix D showing the targeted areas for Project activities. A detailed description in Appendix F is found for the demonstration sites. Table 1 lists the Project areas:

**Table 1: Project Areas**

<b>Mining Zone</b>	<b>Centres of Excellence</b>	<b>Demonstrating Site</b>	<b>Mineral</b>
Eastern Lake Victoria	Musoma	Buhemba	Gold
Lake Nyasa	Songea	Mbesa (Tunduru)	Copper
South Western	Mbeya	Chunya (Itumbi)	Gold
Lake Victoria	Geita	Rwamgasa	Gold
Lake Victoria	Mwanza	Keyrwa	Tin (cassiterite)
Central West	Kahama	Katente	Gold
Central	Mtwara	Nachingweya	Gold/Industrial Minerals
Western	Mpanda	Kaparamsenga	Copper

MAP of the areas



Source: MEM

### Socio-Economic Characteristics of the project areas.

As part of the Additional Financing Project Preparation, a baseline was conducted in three of the seven Project zones: Lake Victoria, Eastern Lake Victoria, and South Western.<sup>2</sup> These three zones were selected due to the prevalence of ASM in these areas, with a combined population of artisanal

<sup>2</sup> The random sampling of the mining sites for the survey was done from two lists of mining sites. The first list comprised of mining sites that were seen by MEM as active sites with many mining groups and the second list comprised of mining sites that MEM felt were small and with few mining groups. This was in line with the requirement of the MEM in order to ensure that the baseline survey did not leave out the small and emerging mining sites. A stratified, random sampling approach was used to select respondents for this survey. In this approach to sampling, strata (divisions) were predetermined and then the respondents within the predetermined strata were randomly selected to participate in the study.

or small-scale miners: 223,961. As of 2014, the Ministry of Energy and Minerals had registered 680,185 small-scale miners operating across all mining areas of the country.

The baseline survey<sup>3</sup> data was collected from 849 miners /pit owners across the three zones, and further samples another 46 mine owners and 647 heads of households in the same three zones. It employed mixed methods. The study further identified a control group of non-mining households living around the mining sites in order to establish a comparison point for evaluation purpose.

### **Education, Production and Income (livelihood)**

The baseline survey highlighted that mine workers have low levels of education with women having lower mean level of education than men. The majority of miners reported being taught mining by their peers within the mining site, indicating a system of informal apprenticeship and training in artisanal and small scale mining that can be explored and improved for skills building in the artisanal mining sector. Mining was the sole source of livelihood for 50% of miners where 24.4% of all miners have been mining in the same mining site for 5–10 years indicating some stability in the area contrary to the migratory mining phenomenon seen during a ‘gold rush’. 1.8% of miners were children (below 18 years) though this is related to the sampling process which specifically identified adult respondents. The clandestine nature of child labor under the Tanzania Employment and Labor relations Act (2004) which prohibits employment of children in hazardous work means that a rigorous/quantitative analysis of child labor in mining is extremely difficult to do.

Basic needs expenditure analysis and a review of how the income from mining is spent were used as a proxy for average individual and household income and the results show that miners spend an average of 50,000 Tshs (approximately 31.3 USD) per week on food. Statistically, with equal variance not assumed, there is no significant difference observed in food security between mining households and non-mining households. This means that on average mining households do experience same level of food shortage/ struggle to get food for the family as does the non-mining households. 19% mining households spent up to TZS 50,000/- (31.5 USD) on medical expenses in comparison to their counterpart non-mining households where 8.9% spent the same amount of money for medical expenses. Communication and transport consumed an average of 20,000/- Tshs (12.5 USD) per week. Artisanal and small scale miners’ income is irregular and dependent on striking a productive ore body thus they can be months or a whole year without income. In terms of burden of care, the results show that women have a statistically higher average number of dependents than men with 76% of women having up to six dependents as compared to 57% of men. Supporting these families without regular income is a challenge and many miners live on credit and 23% of income from mining is used to pay debts. 33% of income is used for running costs related to mining activity, mineral processing, and transport or trading.

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<sup>3</sup> The questionnaires were administered using the mobile phones and survey software on existing cellular networks to provide an electronic platform for data collection and enable immediate data entry. The mobile phones used for the data collection exercise were GPS enabled and thus allowed the data collectors to take GPS coordinates for households and mining sites visited in areas where there was network coverage. GPS coordinates for social services infrastructures were also collected in all places with network reach.

In terms of production once a gold bearing ore is reached, 13.0% of mine owners are producing up to 20 kg of gold-bearing ore per day, 17.4% of owners reported 20 – 40 kg of ore per day, 10.9% of owners reported more than 40 kg of ore. The majority of respondents (58.7%) reported measuring production in other terms. 65.2% of mine owners reported to produce an average of 1 – 5 grams of gold out of whom 13.3% reported to produce 1-5 grams of gold from 20 kg ore, 16.7% reported 1 – 5 grams from 20 – 40 kg ore, and 10% reported 1 – 5 grams of gold from over 40 kg of ore. Majority of mine owners (60%) reported other measures.

28.3% of miners work more than 13 hours a day while 49.5% of miners work in excess of three night shifts per week. 11.8% of miners are too sick to work every week representing a considerable loss of productivity for the mines and income for the miners. Poor processing methods lead to loss of valuable minerals which can be avoided through more efficient technologies. A shortage of skilled workers in the mining sites, such as certified blasters and geologists among other skills, also negatively affects production.

### **Alternative Livelihood**

In terms of alternative livelihoods, miners expressed a preference for trading businesses and considered that this would potentially provide much a higher income than mining. Other alternatives identified were agriculture including farming and animal husbandry. The miners' interest in these alternative livelihoods was also confirmed by data showing reinvestment of income gained from mining into mining equipment/ tools, agriculture, and small business activities. These alternative livelihoods could be used to guide any potential compensation discussions, and provide an indication

Activities to be carried out under the Additional Financing are not expected to have any direct economic and social impacts resulting from involuntary land acquisition or resettlement. This can be explained by the fact that: i) minor building upgrades to existing Zonal Mining Offices will not require additional land acquisition; and ii) equipment and capacity training provision to small-scale miners will occur through established demonstration sites already under government management, or on Primary Mining Licenses (PMLs).

However, in the event that the Project deems it necessary to acquire new lands, triggering involuntary resettlement, consultation will be held first with the World Bank. Should the acquisition of land be deemed necessary for successful Project implementation the government, coordinated by the Ministry of Energy and Minerals, will prepare a Resettlement Action Plan (hereafter RAP) based on the RPF, to be approved prior by the World Bank before any action is taken.

## **2 LEGAL OVERVIEW AND NATIONAL POLICIES**

The United Republic of Tanzania (URT), through its implementing agency, the Ministry of Energy and Minerals, seeks to ensure that Additional Financing project is carried out in line with Tanzania's relevant legislation and policies with respect to resettlement and land. Furthermore, the World

Bank's resettlement and land policies are to be considered. To that end, a discussion on Tanzanian laws and policies is provided below followed by a discussion on the World Bank's resettlement policy. A gap analysis between Tanzanian legislation and international best practice guidelines is then outlined.

It is important to view any resettlement in Tanzania in a legal setting and within the context of the stated laws, policy and regulatory requirements of the Government of the Republic of Tanzania.

There is no single piece of legislation that governs resettlement in Tanzania. However a number of sections of legislation are applicable to any resettlement process. These are listed below with pertinent select laws being discussed further in the subsequent section. This is followed by an overview of national policies to be considered for livelihood restoration, summary of the guidelines for resettlement of international funders and commonly, finally, a gap analysis of Tanzanian legislation and best practice guidelines.

Sections of Tanzanian Legislation applicable to the RFP are as follows

- The Constitution of the United Republic of Tanzania of 1977, specifically the Bill of Rights;
- Mining Act of 2010;
- Land Act of 1999 (Cap 113)
- Village Land Act of 1999;
- Land Acquisition Act of 1967;
- Land Disputes Courts Act, (Cap 216)
- Grave (Removal) Act of 1969;
- Environmental Management Act of 2004;
- Water Resources Management Act, 2009`
- Antiquities Act of 1964 (amended 1979)
- The Graves (Removal) Act of 1969
- Land (Compensation Claims) Regulation 2001;
- Forest Act of 2002;
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In addition, the following are to be taken into account during the income restoration process.

- National Environmental Policy of 1997;
- Tanzania Minerals Policy of 2009
- Poverty Reduction Strategy
- Agricultural and Livestock Policy of 1997;
- National Forest Policy of 1998.

The overall objective of the Policy Framework is derived from the Bill of Rights of the Constitution of the United Republic of Tanzania of 1977. The following articles are critical:

Article 13 (1): All persons are equal before the law and are entitled, without any discrimination to protection before the law.

Article 13 (4): No person shall be discriminated against by any person or any authority acting under any law or in the discharge of the functions or business of any state office. Article 24 (1): Subject to



provisions of the relevant laws of the land, every person is entitled to own property, and has a right to the protection of his property held in accordance with law.

Article 24 (2): It shall be unlawful for any person to be deprived of property for the purposes of nationalisation or any other purposes without the authority of law which makes provision for fair and adequate compensation.

Below is discussion of these various pieces of legislation and their relevance to any resettlement.

### **Brief Background on Land Tenure in Tanzania**

The land tenure system in Tanzania rests on customary as well formal land laws. Since colonial times and up to today, all land in Tanzania has been under the state, but customary land use rights are also recognized in the post-colonial land laws.

In 1895, under German colonial administration, an Imperial Decree provided that “...all land in German East Africa shall be regarded as unowned”. British colonial rule of Tanganyika after World War I continued this practice. In 1923, a Land Ordinance was issued to declare that all land was public and land rights were under the authority of the Governor. It was not until 1958 that the colonial administration introduced individual ownership of land in the form of freehold.

Following its Independence in 1961, Tanzania declared that “land is a free gift from God to all”. Two years later, in 1963, Traditional role of chiefs in land allocation according to customary law was abolished. This role was transferred to the District Administrations and villages. In an effort to reinforce public ownership of land, the government decided in 1973 to promote communal farming in registered villages. In a major resettlement operation aimed at abolishing customary land tenure, District Development Councils allocated new village land and Village Councils allocated a piece of land to households. Even people living in pastoral areas were required to organize themselves in Ranching Associations in order to have land rights. But the experiment failed and was eventually abandoned. As a result, some people attempted to move back to their ancestral land while others settled in the new areas. This led to conflicting claims between those who settled in the allocated village lands and those who elected to return to their original land.

Because of the multiplication of land disputes arising from the land socialization experiment, the government had to set up land allocation committees at the district, regional and national levels to mediate land allocation disputes. Land disputes became so serious that in January 1991 a Presidential Commission of inquiry into Land Matters was established to address land tenure issues. The work of the Commission led to the adoption of the Regulation of Land Tenure Act in 1992, which provided for extinction of customary tenure without compensation. But the Act was successfully challenged in courts and further work was initiated to prepare a coherent National Land Policy which authorized the granting of permits, licenses, claims and rights for exploitation of natural resources be issued in line with land use policies, and environment conservation policies and programs.

The National Land Policy paved the way for the adoption of the Land Act in 1999. The Act stipulated that all land would remain public land and would be administered by the Commissioner for Lands on behalf of the President. The Act confirmed the following tenure system: granted right of occupancy, customary tenure, and leasehold estates. Customary tenure applies to village land, general land, reserved land as well as urban land and peri-urban areas. As a complement to the Land Act, the Village Land Act no. 5 was also passed to govern the administration of village land. In terms of responsibility for enforcement, the Ministry of Land will be in charge of administering the implementation of the National Land Policy and the Village Land Act, while the Local Government will be the implementers of the Village Land Act.

There are three main registers of land rights in the country: the Village Land Registry, the Local Land Registry, and the Registry of Titles. The majority of rural people in ASM areas rely on a Customary Right of Occupancy which gives the right to occupy and use the land without official registration or certificate. The Customary Right is often held by the male head of the family. It is not uncommon that family members can be left landless upon the death of the head of the family. Land allocation for ASM often follows customary rights at the village level. For large-scale mining, the government operates a Land Bank through the Tanzania Investment Centre for the purpose of allocating land to foreign investors. Sometimes, land allocated to investors overlaps with the rangelands use by pastoralists or areas occupied by small-scale miners on the basis of customary rights. The overlap has often led to conflicts between large-scale mining and local communities, particularly local artisanal miners who feel that their land has been disposed for the benefit of foreign mining companies. The government has launched a number of initiatives to formalize land tenure and minimize land conflicts between foreign companies and local communities. These include:

- Commission for the Legal Empowerment of the Poor (CLEP)
- Property and Business Formalisation Programme (Swahili acronym MKURABITA)
- Strategic Plan for the Implementation of the Land Laws (SPILL)

Through SPILL, the Ministry of Lands and Human Settlement Development has piloted initiatives to survey and give certificates of title to village and urban land. MKURABITA also focused on registering poor peoples' wealth (land, houses and other property) in a unified system of property rights and businesses. Mining laws and regulations were also modified to address land tenure issues. Land tenure provisions were first introduced in the Mining Act of 1988. Section 14 of the Act gives the Minister responsible for minerals – in consultation with the Mining Advisory Committee - the right to “designate any vacant area as an area exclusively reserved for prospecting and mining operation, if he determines that it would be in the interest of the orderly development of the Mining Industry in Tanzania.”

In case of land disputes, the Act provided that the Commissioner for Minerals may decide all disputes between persons engaged in prospecting or mining operations, either among themselves, or in relations to themselves and third parties. The commissioner makes an order, which can be sent to a local civil court to be enforced. The order can be appealed to the High Court within 30 days.

The Act stipulates that an Agreement should be made with the lawful occupiers of land and their written consent obtained to carry out mining or prospecting operations. It clarifies that the holder of a Mineral Right *shall not* exercise any of his rights under his license except with the written consent of the lawful occupier in respect of any land which is the site of, or any inhabited, occupied or temporarily unoccupied house or building; (ii) any land within 50 meters of land which has been cleared or ploughed or otherwise prepared in good faith for the growing of agricultural crops or upon which agricultural crops are growing; (iii) any land from which, during the year immediately preceding, agricultural crops have been reaped. Mining companies are obliged to pay compensation for damage to crops and buildings that were already there.

Land disputes often arise between large scale mining companies and local occupants, including small-scale miners. To address this issue, the government has set aside exclusive areas for the orderly development of small-scale mining and decentralized the decision making on land right allocation for small-scale mining. Land allocation in the ASM exclusive areas is governed by the Village Land Act and the Mining Act, which provide for decentralized authorities (district government and zonal mining offices) to allocate land for the ASM. Land disputes are therefore minimized because the ASM rights are provided by local authorities, and they do not encroach on large scale mining rights which are granted by central authorities.

Since ASM is often a local occupation, resettlement risk is minimal where the activity is regulated by customary or formal laws. The resettlement risks increase in unregulated “gold rush” areas where rapid in-migration and haphazard mining spread across vast areas of land, causing population growth explosion, environmental degradation and destruction of habitat. The government has attempted to minimize the environmental and resettlement risks of mineral rushes by authorizing zonal mining offices to track ASM activities and quickly move to regularize activities in the areas by declaring them exclusive ASM areas and requiring operators to acquire primary mining licenses in conformity with the Mining Act.

### **Present Challenges with Land Tenure: Implications for Resettlement Policy and Practice**

As a precursor it should be noted that “land” has a number of definitions in legal status in Tanzania. The Mining Act (2010 Cap 123) defines land to include water. It also defines the term “land to which this Act applies” means land in Tanzania as well as seabed and sub soil of the continental shelf. Land in the Land Act (1999 Cap 113) is defined to include:

“the surface of the earth and the earth below the surface and all substances other than minerals or petroleum forming part of or below the surface, things naturally growing on the land, building and other structures permanently affixed to or under land and land covered by water.”

Hence while the definition of land in the Land Act excludes minerals, the Mining Act in its definition of land does not exclude “surface of earth, things naturally growing on land, building and other structures permanently affixed to or under land”, things which are within the jurisdiction of ministry for lands.

It appears therefore that there is a question of which law between the two prevails especially when it comes to the dispute of settlement issues over compensation. The compensation is NOT for minerals but for developments allowed in the land laws. On one hand you have the villager who owns land under the Village Act, expecting all disputes including compensation to its improvements be resolved under that law, while on the other hand you have a person or entity with a Mineral Right depending on the Mining laws to solve any dispute including that of compensation.

Project activities are expected to take place in areas governed by the Village Land Act (Act No. 5 of 1999). For the purpose of the management of land under the Village Land Act and all other laws applicable to land, public land falls in the following categories:

#### **General Land;**

- Village Land, including deemed right of occupancy and customary tenure; and
- Reserved Land.

Under Section 4 (1) of the Land Act, 1999, all land in Tanzania belongs to the state. Land can, however, be owned in three different ways: 1) Government granted right of occupancy; 2) Tanzania Investment Centre (TIC) derivative rights; and 3) Sub-Leases created out of granted right of occupancy by the private sector.

Rights of occupancy and derivative rights are granted for short and long term periods. Long term rights of occupancy periods range from 5 to 99 years and are renewable, but for not more than 99 years. Long term derivative rights and leases range between 5 and 98 years. The occupancy rights

requested would need to reflect the mining period envisaged and associated resettlement considerations.

Communities and individuals are not permitted to use reserved or restricted land for economic activities. Land is so designated by order of the President or the Minister charged with conservation of natural resources. Tenure rights to land in the first category can be held by individuals and by communities. Village communities are allowed to hold land and to manage it (relevant to the allocation of resettlement sites), although they do not formally own the land. Holdings of individuals can be as follows:

- By leasehold right of occupancy for varying periods; e.g. for 33, 66 or 99 years; and
- By customary right i.e. in usufruct in perpetuity.

As such tenure rights are defined by the Land Act and the Village Act. The Land Act provides for village land to be administered and managed by local communities. The Act provides for a measure of protection for those who use the land through allocation by village government. In particular GN 78 and 79 published on 4 May 2001 and adjuncts to the Land Act (Act No. 4 of 1999) make provision for the compensation of assets acquired by the state or developers.

Land that is not village land can be allocated by the state to users under specified tenure regimes. In addition, Participatory Land Use Planning and Management (PLUM) is explicitly recognized in the Land Policy of 1995. Responsibility for adjudicating tenure or usufruct issues on village land is assigned to village government.

Taxation is the prerogative of local authorities. Villagers hold rights of occupancy and use for an indefinite (i.e. unlimited) period. Village lands do not have to be titled for rights of users and occupants to be recognized, and are not subject to rental payments. Security of tenure is seldom disputed at the village level.

In accordance with provisions of the Tanzanian legal framework, a process for preparing and approving resettlement plans should be based on PLUM (with technical assistance of relevant district officers). The Village government should therefore be able to:

- Review the proposal to prepare a resettlement plan;
- Discuss the proposal within village government entities;
- Prepare and agree on proposals for settlement layout plans;
- Approve the resettlement plan subject to national legislation, especially the Land Act no. 4 of 1999 and the Land Acquisition Act of 1967.

The due process for acquisition of private properties or rights-of-ways thereon for infrastructure and other development projects is found in Land Act no 4 of 1999, Village Land Act no 5 of 1999 and Land Acquisition Act no 47 of 1967. However, according to the current Tanzania law and practice the assessment and payment of compensation for un-exhausted improvements, loss of accommodation, loss of profit, disturbance and transport is governed by Land Act No.4 of 1999 and Village Land Act No.5 of 1999 and their respective Land and Village Land Regulations, Supplement No 16 of 2001. The payment of compensation is not only a legal requirement, but a constitution imperative under Article 24 of the Constitution of the United Republic of Tanzania of 1977 as mentioned above.

Section 3 (1)(f) of the Land Act No 4 of 1999 provides that "interest in land has value and that value must be taken into consideration in any transaction affecting land". Thus, acquisition of land will amount to compensate owners for bare land in addition to un-exhausted improvements.

Sub-paragraph (g) of the same section provides that full, fair and prompt compensation has to be paid to any person whose right of occupancy is affected or interfered with to their detriment. In assessing compensation of the land acquired, the concept of opportunity shall be based on the following; market value of the real property, disturbance allowance, transport allowance, loss of profits or accommodation, cost of acquiring or getting the subject land, any other cost loss or capital expenditure incurred to the development of the subject land and interest at bank market rate will be charged if payment of compensation is delayed.

The Minister may subject to and in accordance with sections 152 and 153 of the Land Act No.4 of 1999 create rights of way, which shall be known as public rights of way. The Ministry or government department or local authority or public authority or corporate body shall make applications for way leave or communal right of way to the Commissioner for Lands. Notice shall be served to all persons, local government authorities and any other interested persons occupying land over which the proposed way leave is to be created.

According to Section 156(1) of the Land Act No. 4 of 1999 compensation shall be payable to any person for the use of land of which he is in lawful or actual occupation, as a communal right of way and, with respect to a way leave, in addition to any compensation for the use of land for any damage suffered in respect of trees, crops and buildings as a result of the creation of such way leave. The duty to pay compensation shall lie with the government department of Ministry, local or public authority or corporate body, which applied for the public right of way and that duty, shall be complied with promptly. Refer Section 156(3) of the Land Act No.4 of 1999.

When the parties fail to agree on the amount or method of payment of that compensation, the person entitled to compensation may take legal action through the courts to determine the amount and method of payment of compensation as stipulated under Section 156 (4) of the Land Act No.4 of 1999.

It should be noted that dispute settlement mechanism is also provided under the land laws by the Land Disputes Courts Act, Cap 216. The forums for the settlement of land disputes in this Act are the Village Council (for villages), Ward Tribunals (for urban areas), the District Land and Housing Tribunals, the High Court (Land Division) and ultimately the Court of Appeal of Tanzania

On the other hand, the Mining Policy states in paragraph 3.3.3(viii) as follows:

“To ensure rights and obligations in contracts are protected and to give opportunity to dispute resolution mechanism in courts or international Arbitration”.

Disputes under Cap 123 are inquired into and decided by the Commissioner for Minerals. These include disputes on boundaries, claim to erect or cut down, assessment and payment of compensation in the Act and in any other prescribed matter.

The dispute settlement mechanism under the Mining Act is provided in section 101(1) where the Commissioner for Minerals is empowered to inquire into and give decision on several issues including the issues of boundaries; claims to entitlement to erect, construct or felling of vegetation; assessment and payment of compensation pursuant to the Act; and any other prescribed matter.

The Commissioner has discretion either to refuse to decide on a dispute before him or he may agree to go ahead to decide by making an order which in accordance to section 101(2), the order is enforceable by Courts as its own order. A person aggrieved by the decision may appeal to the High Court within 30 days (implying that appeal the Court of Appeal is possible), but there is no appeal against a refusal by the Commissioner.

Hence the Mining Act allows an applicant to a Mineral Right (MR) - see also the Mining (Mineral Rights ) Regulations GN Nos. 217 of 1999 and 148 of 2001 - to apply for the right but after he has obtained the MR the law under section 95 limits him to exercise that right until he has obtained consent of the lawful occupier. But if the consent of the lawful occupier is, in the opinion of the Minister and on advice of the Mining Advisory Committee, being unreasonably withheld then the Minister (for minerals) may direct to dispense the need for consent.

The apparent issue is that there are two parallel systems in dispute settlement when an issue of compensation arises.

Sections 157 and 158 of the Land Act No.4 of 1999 empower the court to enforce, modify, and extinguish easements or an analogous right and a public right of way. The provisions of Government Notice No.86 of 4/5/ 2001 Part III on compensation and part II on compensation under the Village Land Act No.5 of 1999 will also apply, depending on the location of the land or property.

In case of conflict or inconsistency between the Land Acquisition Act No.47 of 1967 and Land Act No.4 of 1999, it is the Land Act which takes precedence over any other written law to the contrary as provided under Section 181 of the Land Act No.4 of 1999.

According to Section 10 (1) of the Land (Compensation Claims) Regulation 2001, compensation shall take the form of:

- Monetary compensation;
- Plot of land of comparable quality, extent and productive potential to the land lost;
- A building or buildings of comparable quality, extent and use comparable to the building or buildings lost;
- Plants and seedlings;
- Regular supplies of grain and other basic foodstuffs for a specified time.

The Regulation (Assessment of Value for Compensation) states "...the basis for assessment of the value of any land shall be the market value of such land". The market value is arrived at by the use of the comparative method substantiated by actual recent sales of similar properties, or by use of income approach or replacement cost method, in case the property is of special nature and not saleable.

The assessment of the value of land and any improvements will be done by a Qualified Valuer and verified by the Chief Valuer of the Government or his / her representative.

According to the Regulation, the following are eligible for compensation / resettlement:

- Holder of right of occupancy;
- Holder of customary right of occupancy whose land has been declared a hazard land;
- Holder of customary land who is moved or relocated because his/her land becomes granted to other person;
- Holder of land obtained as a consequence of disposition by a holder of granted or customary right of occupancy but which is refused a right of occupancy;
- Urban or peri-urban land acquired by the President.

If the person does not agree with the amount or method of payment or is dissatisfied with the time taken to pay compensation, he /she may apply to the High Court. The High Court shall determine the amount and method of payment and determine any additional costs for inconveniences incurred Mining Act of 2010 (Cap 123)

Section 96 of the Mining Act, in particular para 3-5 includes the following sections that are relevant to the RPF :

Section (3) Where, in the course of prospecting or mining operations, any disturbance of the rights of the lawful occupier of any land or damage to any crops, trees, buildings, stock or works thereon is caused, the registered holder of the Mineral Right by virtue of which the operations are carried on, is liable pay the lawful occupier fair and reasonable compensation in respect of the disturbance or damage according to the respective rights or interests of the lawful occupier in the property concerned.

Section (4) Where the value of any land has been enhanced by prospecting or mining operations, compensation payable pursuant to subsection 3 in respect of the land shall not exceed any amount which would be payable if the value had not been so enhanced.

Section (5) Where the amount of compensation to be paid pursuant to subsection (3) in any particular case is in dispute, either party may refer the matter to the Commissioner who shall, subject to section 101, deal with the matter in accordance with Part VIII.

Whereas section 3 above identifies that compensation should be paid, it does highlight differences between land law in Tanzania and World Bank OP 4.12 - payment of compensation in Tanzania are essentially based on the right of ownership. The national legislation is silent on the rights of squatters and is not specific and precise on the rights of usufruct on public land. On this subject matter, the Bank OP4.12 is specific and precise. It states that affected persons are entitled to some form of compensation whether or not they have legal title if they occupy the land by a specified cut-off date. Hence it complements the national legislation and, if the project encounters such a situation, the World Bank's approach will be used in this policy framework. Reference to other viable international approaches may also be referred to during implementation of sub-projects, where and if needed. Further, in conformity with OP/BP 4.12, for all compensation, the value of the assets will be determined based on the prevailing market prices/values (see also

Table ).

## Cultural Resources and Graves

The Antiquities Act of 1964 (amended in 1979) provides for the preservation and protection of sites and articles of paleontological, archaeological, historical or natural interest. The Mining Act, Sec 95 (vi) also makes specific reference to the Antiquities Act. The Graves (Removal) Act of 1969 provides for the removal of graves.

### International resettlement requirements

The SMMR Project AF is to adopt best practice approaches to resettlement and so will follow the guidelines of the World Bank<sup>4</sup> very closely. These are summarized below:

## 2.1 World Bank OP 4.12 Procedures and principles for Resettlement

World Bank Operational Policy 4.12 (World Bank, 2004) is seen as the standard set of international resettlement guidelines. The fundamental objective of resettlement planning, as encapsulated in O.P. 4.12 is to avoid resettlement whenever feasible, or, when resettlement is unavoidable, to minimize its extent and to explore all viable alternatives. The OP states:

‘Where land acquisition and involuntary resettlement are unavoidable, resettlement and compensation activities are carried out in a manner that provides sufficient opportunity for the people affected to participate in the planning and implementation of the operation. Furthermore, if incomes are adversely affected, adequate investment is required to give the persons displaced by the project the opportunity to at least restore their income’.

This document further states the following basic principles in terms of resettlement:

- Avoid or at least minimise involuntary resettlement wherever feasible by exploring alternative project designs;
- Mitigate adverse social and economic impacts from land acquisition or restrictions on affected persons’ use of land by:
- Providing compensation for loss of assets at replacement cost; and
- Ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected
- Improve or at least restore the livelihoods and standards of living of displaced persons;
- Improve living conditions among displaced persons through provision of adequate housing with security of tenure at resettlement sites.<sup>5</sup>

OP 4.12 requires that a Resettlement Action Plan (RAP) be prepared and accepted by the relevant authorities prior to implementing resettlement activities. The World Bank also requires that the provision of compensation and the restoration of livelihoods of those affected are ensured prior to any actual resettlement.

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<sup>4</sup> The World Bank guidelines are appropriate for this RPF, the IFC’s guidelines (performance standard 5) are commonly adopted for privately financed or IFC finance projects.

<sup>5</sup> This assumes that it is possible to acquire freehold tenure. This is not always possible.



This policy document requires that a RAP be prepared and accepted by the relevant authorities prior to implementing resettlement activities. The O.P 4.12 also requires that provision of compensation and the restoration of livelihoods of those affected are ensured prior to any actual resettlement. This means that any land acquisition for Project activities can only take place following compensation, or alternatively, if adequate guarantees of compensation have been made to the Project Affected Person's (hereafter PAP) satisfaction. Resettlement sites, new homes, related infrastructure, public services and moving allowances must be provided to the affected persons in accordance with the provisions of the Resettlement Action Plan.

In addition, the policy requires:

- Replacement of assets rather than cash compensation, unless in specific circumstances;
- A process to define eligibility for benefits according to certain criteria and determination of entitlements according to eligibility;
- The development of appropriate resettlement planning, implementation and monitoring documents including a resettlement plan or framework that achieves the objective of OP4.12. The Policy requires that a resettlement action plan shall be prepared and cleared by the Bank prior to implementing resettlement activities;
- Grievance mechanisms to be in place at the early stages of the resettlement processes
- Inclusion of costs of resettlement in the overall cost of the Project; and
- Monitoring and Evaluation of resettlement and its impacts, and determination of whether requirements under the RPF and subsequent RAPs have been effectively implemented

Vulnerable groups are given particular attention in the policy, and defined in general as those below the poverty line, often landless, and predominantly sub-social groups such as the elderly, women, children or orphans, indigenous groups, ethnic minorities, orphans.

Table 2 below provides a summary comparison of legal and international requirements and variances with Tanzanian legislation. Where there is a difference between the two, the higher standard will prevail:

**Table 2: -**

Content	Tanzanian Legislation	World Bank OP 4.12	Gaps/Measures
Land owners	<p>The Land Acquisition Act 1967, the Land Act 1999 and the Village Land Act 1999 have it clearly that land owners, with or without formal legal rights, are entitled to full, fair and prompt compensation. They also get disturbance allowance, transport allowance, accommodation allowance and loss of profit if they were in actual occupation of the acquired property.</p> <p>Lost assets are limited to “unexhausted improvements”, that is the land and developments on the land. The law does not cover economic and social impacts of relocation and as such socioeconomic surveys are not</p>	<p>PAPs are classified into 03 groups: (a) those who have formal legal rights including customary and traditional rights; (b) those who do not have formal legal rights to the land but have a claim to such land or assets provided that such claims are recognized under the law of the country; and (c) those who have no legal rights to the land they are occupying Land owners of (a) and (b) above, are among PAPs who are entitled to full, fair and prompt compensation as well as other relocation assistance. Socio-economic impacts to PAPs are taken into consideration in preparing the RAP</p>	<p>There is no gap between Tanzania laws and OP 4.12 as far as those with formal legal rights and those without formal legal rights are concerned. However, the lost assets in Tanzania are restricted to land and developments on land, and where relevant, loss of profits. The lost assets under OP 4.12 are much wider than land, and include loss of access to livelihoods and standard of living. It seeks to improve them or at least to restore them to pre-displacement levels.</p>
Land tenants/squatters	Tanzanian laws do not recognize tenants as being entitled to compensation	Tenants would be under category (b) above and are among the PAPs who are entitled to full, fair and prompt compensation	OP 4.12 recognizes a wider spectrum of PAPs. The Tanzania spectrum is limited to those who can prove proprietary rights. It does not include tenants
	Squatters may be paid compensation on the whims of the government. In some cases however they are not paid. This include those who construct on road reserves	Squatters may fit category (c) above and are provided resettlement assistance in lieu of compensation for the land they occupy as well as other relocation assistance.	OP 4.12 includes squatters among the PAPs who are entitled to resettlement assistance in lieu of the land they occupy, as well as other assistance. This is different from the Tanzanian situation where such people are not entitled to any assistance.
Land users	Tanzania law on compulsory acquisition and compensation is limited to those who can prove de jure or de facto land ownership and those who have land use rights or customary rights. Illegal users are not covered under Tanzanian laws.	OP 4.12 includes displaced persons who have no recognizable legal right or claim to the land they are occupying	All affected persons should be entitled to some form of compensation whether or not they have legal title
Owner of non Permanent/permanent	Tanzanian law makes no differentiation between owners of permanent and non-permanent	Under the OP4.12 permanent and non-permanent buildings need to be	The gap between Tanzania and OP 4.12 is about eligibility, which is hinged upon formal

Content	Tanzanian Legislation	World Bank OP 4.12	Gaps/Measures
buildings	buildings. As long as ownership can be proved compensation is payable. Determination of compensation is based on the market value of the property. In practice though the depreciated replacement cost approach is used, meaning that PAPs do not get the full replacement cost of the lost assets.	compensated. Where however, the displaced persons have no recognizable legal rights they are to be provided with resettlement assistance in lieu of compensation for the land they occupy, as well as other assistance. Cash compensation levels should be sufficient to replace the lost land and other assets at full replacement cost in local markets.	or informal ownership. While, in Tanzania, compensation is based on market value, determined using the depreciated replacement cost approach for developments on land, OP 4.12 requires that compensation should be sufficient to replace the lost land and other assets at full replacement cost.
Encroachers	Person who encroaches on the area are not entitled to compensation or any form of resettlement assistance. Encroaches have to demolish their asset without any compensation, if refuse the authority concern will demolish at their cost. It is strictly prohibited to especially to build a house or to plant permanent trees and crops within the unauthorized areas	Person who encroaches on the area after the cut-off date are not entitled to compensation or any form of resettlement assistance	Those who encroaches the area after cut-off date are not compensated.
Timing of compensation payment	Tanzanian law requires that compensation be full, fair and prompt. Prompt means it should be paid within 06 months, failure to do which attracts an interest rate equivalent to the average rate offered by commercial banks on fixed deposits. Legally, compensation for the acquired land does not have to be paid before possession can be taken, but in current practice it is usually paid before existing occupiers are displaced. In practice, compensation is not paid promptly most of the time, and delays are not rectified paying the interest rate as required by the law	Displaced persons are provided prompt and effective compensation at full replacement cost for losses of assets directly attributable to the project	In terms of timing, both Tanzanian laws and OP 4.12 require that compensation be paid promptly. This however, rarely happens in practice as can be testified from projects that have involved large scale land acquisition.
Calculation of compensation and valuation	According to the Land Assessment of the value of Land for Compensation Regulations 2001 as well as the Village Land Regulations 2001 compensation for loss of any interest in land shall	OP4.12 requires that displaced persons be provided with prompt and effective compensation at full replacement cost for losses of assets attributable direct to the	Tanzania law provides for the calculation of compensation on the basis of the market value of the lost land and unexhausted improvements, plus a disturbance,

Content	Tanzanian Legislation	World Bank OP 4.12	Gaps/Measures
	<p>include the value of unexhausted improvements, disturbance allowance, transport allowance, accommodation allowance, and loss of profits. The basis for assessment any land and unexhausted improvement for purposes of compensation is the market value of such land. The market value is arrived at by the use of comparative method evidenced by actual recent sales of similar properties; or by the use of the income approach, or replacement cost method, where the property is of special nature and not saleable. In practice, with land an attempt is made to establish market value from recent sales, but these are usually not transparent. As for unexhausted improvements in terms of buildings and other civil infrastructure, the depreciated replacement cost approach is used</p>	<p>project. Replacement cost is the method of valuation of assets that helps determine the amount sufficient to replace lost assets and cover transaction costs. Depreciation is not to be taken into account when applying this method. For losses that cannot easily be valued or compensated in monetary terms (e.g. access to public services, customers and suppliers, or to fishing, grazing or forest areas) attempts are made to establish access to equivalent and culturally acceptable resources and earning opportunities.</p>	<p>accommodation, and accommodation allowance, and loss of profits where applicable. Since depreciation is applied, the amount paid does not in most cases amount to that required to replace the lost assets. Besides, other types of assets (besides land) are not taken into consideration. Tanzania laws are restricted to land and developments on land, and loss of profits whereas WB OP 4.12 considers all types of losses and provision of alternative compensation measures.</p>
<p>Relocation and resettlement</p>	<p>Tanzanian laws do not provide for relocation and resettlement. However, there are a few cases where the government has provided both compensation and alternative land, but this has been done at its discretion. In general, however, the government feels that it has discharged its duty once compensation is paid, and it is up to the displaced persons to resettle and re-establish themselves elsewhere</p>	<p>OP 4.12 stipulates that where project impacts include physical relocation, measures should be taken to ensure that the PAPs are: (i) provided with assistance during relocation; and (ii) provided with residential housing, or housing sites, or, as required, agricultural sites for which a combination of productive potential, locational advantages and other factors is at least equivalent to the advantages lost</p>	<p>Tanzanian law provides for transport allowance for 12 tons of luggage for up to 12 km from the acquired land, provided the displaced person was living on that land. In lieu of housing accommodation allowance is made in the form of rent for 36 months. Occasionally, in a discretionary manner alternative land is awarded.</p>
<p>Completion of resettlement and compensation</p>	<p>The government can under the law, take possession of the acquired land at the end of the notice to acquire period, before paying compensation. Current practice however is such that possession is usually after the payment of compensation whereby the displaced persons are</p>	<p>It is necessary to ensure that displacement or restriction to access does not take place before necessary measures for resettlement are in place. In particular, taking of land and related assets may take place only after compensation has been</p>	<p>The Land Acquisition Act, 1967, allows the government to take possession of the acquired land before paying compensation. Current practice endeavours to pay compensation before taking possession of the land.</p>

Content	Tanzanian Legislation	World Bank OP 4.12	Gaps/Measures
	given time to vacate the land, which is usually as soon as possible	paid, and where applicable, resettlement sites and moving allowance have been provided to the displaced persons.	
Livelihood restoration and assistance	There are no legal provisions requiring the government to restore livelihood or to provide assistance towards the restoration of such livelihoods. Indeed, compensation is not payable in the case of restrictions to access to areas of livelihood opportunities. Moreover there are no provisions that require the government to pay special attention to vulnerable groups or indigenous peoples	Resettlement plan or policy includes measures to ensure that the displaced persons are: (i) offered support after displacement for a transitional period, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standard of living; and, (ii) provided with development assistance in addition to compensation measures, such as land preparation, credit facilities, training or job opportunities.	There are no transitional measures provided for under Tanzanian law and practice; nor are there provisions for compensation as a result of restrictions to access to livelihood. The Tanzanian law does not make provisions requiring the government to pay special attention to vulnerable groups in the administration of compensation
Consultation and disclosure	There scanty provisions related to consultation and disclosure in Tanzanian law. The notice, under the Land Acquisition Act, informs land owners about the President's need to acquire their land, and their right to give objections. The Land Act allows displaced persons to fill in forms requiring that their land be valued, and giving their own opinion as to what their assets are worth. Since resettlement is not provided for legally, there are no provisions about informing the displaced persons about their options and rights; nor are they offered choice among feasible resettlement alternatives.	OP4.12 requires consultation of PAPs, host communities and local NGOs, as appropriate. Provide them opportunities to participate in the planning, implementation, and monitoring of the resettlement program, especially in the process of developing and implementing the procedures for determining eligibility for compensation benefits and development assistance (as documented in a resettlement plan), and for establishing appropriate and accessible grievance mechanisms.	The provisions in OP 4.12 requiring consultation and disclosure have no equivalent in Tanzanian law and practice.
Grievance mechanism and dispute resolution	Under Land Acquisition Act, where there is a dispute or disagreement relating to: (a) the amount of compensation; (b) the right to acquire the land; (c) the identity of persons entitled to	OP4.12 provides that displaced persons and their communities, and any host communities receiving them, are provided with timely and relevant information,	The Tanzanian law does not provide for the establishment of grievance resolution mechanisms specific to particular resettlement

Content	Tanzanian Legislation	World Bank OP 4.12	Gaps/Measures
	<p>compensation; (d) the application of section 12 to the land; (e) any right privilege or liability conferred or imposed by this Act; (f) the apportionment of compensation between the persons entitled to the same and such dispute or disagreement is not settled by the parties concerned within six weeks from the date of the publication of notice that the land is required for a public purpose the Minister or any person holding or claiming any interest in the land may institute a suit in the High Court of Tanzania for the determination of the dispute. In practice the Government tries to resolve grievances through public meetings of the affected persons.</p>	<p>consulted on resettlement options, and offered opportunities to participate in planning implementing and monitoring resettlement. Appropriate and accessible grievance mechanisms must be established for these groups.</p>	<p>cases.</p>

SMMR Project activities will follow World Bank Safeguard Policies. Taking account of the above limitations in Tanzania's laws and policies regarding resettlement, this resettlement policy framework has been prepared to conform to international best practice as reflected in the World Bank's Resettlement Policy.

One of the findings of SESA was in regards to conflict over land for mining, which according to the report remains commonplace and conflict over use of customary land has been a major source of tension between local communities and mining companies in Tanzania, particularly where local livelihoods depend on the use of such land. The licensing process often results in 'grey' or ambiguous areas under which different stakeholders in the mining sector are forced to transact. In particular, the licensing process suffers from institutional weaknesses in that large-scale mining licenses are applied for centrally, whereas small-scale licenses are applied for at local zonal offices of the Ministry of Energy and Minerals. This can result in overlaps between large- and small-scale mining licenses as large mines apply for licenses on what they thought were fairly open areas. Under the law, holders of small-scale mining licenses should in principle be compensated by the larger mining license holder, but there is a lack of an effective and transparent land compensation procedure to resolve conflicts over licenses. Small-scale mining license holders are therefore rarely compensated, and have often resisted being removed from plots even when bought out.

Due to the existence of these problems any land take under this project follows the principles spelled out in this RPF. Consequently, as noted above where there is a difference Tanzanian legislation and OP 4.12, the two, the higher standard will prevail:

## **ROLE AND RESPONSIBILITIES WITH RESPECT TO THE ADDITIONAL FINANCING, AND PLANNING AND IMPLEMENTATION OF RESETTLEMENT ACTIONS**

Resettlement planning and implementation relies on the same structures used during implementation of the original Project. The roles and responsibilities of the relevant institutions are given below following an overview of the administrative framework:

### **2.2 The Project Administrative Framework**

#### **2.2.1 Responsible Agency**

The principal Project implementing agency is the Ministry of Energy and Minerals (MEM), under the day-to-day responsibility of the Permanent Secretary, through its Minerals Division and the Geological Survey of Tanzania. The project will also be implemented in close collaboration with Local Government Authorities (LGRAs) from targeted mining zones/areas where the project will be implemented.



## **2.2.2 Management and Implementation Structure**

- i) A Project Management Unit (PMU) will be responsible for day-to-day project implementation and management and coordination of various activities of targeted stakeholders. Decision-making on implementation of activities, contracting, preparation of terms of references will also be handled by PMU with clearance and approval from the Technical Committee as needed (see item iii below).
- ii) Institutional arrangement: In case there is a RAP the following institutions are involved: Ministry of Energy and Minerals, Local Government Authorities, Ministry of Lands, Housing and Human Settlement Development, the Surveys and Mapping Division. The Ministry of Energy and Minerals keeps records of the compensation and grievances through its Project Management Unit (PMU) and establishes the Resettlement Committee. The PMU is responsible for making sure that the RAP is implemented, provides the budget through the entire process, and set up RAP committees. The Ministry of Lands, Housing and Human Settlement Development is responsible for surveying and demarcating land ownership through its Survey and Mapping Division. Local Government Authorities, through their sections for physical planning will have the responsibility for surveying and valuation, and for sensitization and community mobilization through their community development and environmental management offices. The land tribunal at the district and ward levels resolve land-related disputes and grievances.

The Resettlement Committee comprises representatives of MEM, the Ministry of Lands, Housing and Human Settlement Development, the Land Department of the Municipal/District Land Department, the District Council, the Village or Mtaa Councils, and a representative of affected people.

- iii) MEM's Permanent Secretary will be responsible for providing overall policy guidance, and will ensure that Project activities are carried out in accordance with the Project Implementation Manual/timeline; and

The Project's Technical Committee, consisting of Heads of Units and Sections of MEM and the project coordinator from Geology Survey of Tanzania, monitor and guide project operations, advice on research needs, review annual work plans and budgets as well as annual progress and performance reports prior to submission to the PSC. The Project's Technical Committee also acts as a Steering Committee for the RAP implementation.

## **2.3 Government of the Republic of Tanzania**

The Ministry of Energy and Minerals will acts as the primary resettlement review agent. It will work in close association with a nominated agent from the relevant district and the Local Government Authorities (LGRAs). Previous practices at areas where resettlement has been successfully implemented such as Buzwagi and Kabanga nickel mining projects will be used. For example, District Executive Directors (DED) in which the projects are located have largely acted to represent the

Government of Tanzania. It is envisaged that the government agent will hold (or delegate) the following key responsibilities:

- To act as the primary Government representative;
- To act as chair of any of the consultative forums that are set up, should it so wish;
- To issue formal writs informing households that they are required to vacate their premises, or provide the necessary consent to other agencies to implement this on their behalf;
- To ensure that the Government of Tanzania provides assistance to relocated households as and when required;
- To ensure that the moratorium on settlement within the mining Project Area is observed;
- 
- To send a representative to the consultative meetings to monitor proceedings and make input as and when required;
- To ensure that the Land Use Plan for the host resettlement area meets government planning criteria;
- To provide registered valuers with information necessary to define compensation amounts in conjunction with the Ministry of Agriculture;
- To liaise with the Ministry of Agriculture to ensure that development of the host resettlement area is in accordance with broader Government objectives for sustainable rural development; and
- To assist in identifying development opportunities that could enhance productivity, sustainability and economic viability in the Project area, the affected area, and the host resettlement areas.

In addition the Tanzanian Ministry of Energy and Minerals should appoint an ombudsman to act as an independent adjudicator of disputes between local communities and mining developers, should such disputes arise.

**Consultation:** With respect to consultation, in May 2013 a Strategic Environment and Social Assessment (SESA) was done for the entire sector for which stakeholders such as mining companies, governments, donor agencies, labour and non-governmental organisations (NGOs) were consulted. In total under SESA four stakeholder workshops were held in Arusha, Morogoro, Mbeya and Mwanza and a National Workshop was held in Dar es Salaam. Stakeholders included 16 NGOs and 20 small scale mining. In addition, a baseline socio-economic survey was done for the first three identified sites under the AF – Geita, Tarime and Chunya, which its findings are reflected in the RPF. During the collection of data the artisan mining communities and local stakeholders were interviewed and their views are reflected in the Baseline survey of August 2014.

With regard to SESA, the main concerns related to social issues and land voiced by the stakeholders are summarized below:

Whilst mine workers health and safety was highlighted as a priority in the regional workshops, plenary discussions at the workshops and with individual stakeholders and at the national workshops concluded that large mining operations generally are looking after their own employees health and safety but issues do arise when illegal operators break on to LSM sites. Therefore these issues are dealt with under Mine and Community Security.

The stakeholder interviews did touch on some perceived tensions arising in communities around large mine sites to do with increased inequality between those benefiting economically from Large scale mining (LSM) operations and those who did not. Although at the regional workshops, only in Arusha was cultural tensions / immigration and gender identified as a priority (and a fairly low priority at that), during plenary discussions at many of the regional workshops and during fairly extensive discussions at the national workshops tensions and gender issues (particularly women's role in mining) was highlighted. Many of the challenges and proposed solutions on ensuring that community benefits from LSM operations are dispersed as widely as possible, and ensuring women's participation in LSM are dealt with in the economic section.

#### Residents' Rights and Forced Evictions

The rights of residents and forced evictions were highlighted as a priority by a broad cross section of stakeholders when interviewed as well as at the regional and national workshops.

Tanzania has experienced a number of serious incidents linked with the displacement of residents from their homes in order to make way for new mining ventures. The situation has often been complicated by the difficulties in distinguishing between those who had a legitimate right to compensation and people who took advantage of advanced notice of the development and set up temporary squatters' homes in order to qualify for resettlement. At the same time some companies have taken unilateral action in driving people from their homes, provoking anger and severe tensions in the local communities that has subsequently erupted in violence.

It was stated at the Mwanza and Mbeya workshops that the most important stage in planning any new mineral development is the identification of residents' rights and the creation of a resettlement plan, that not only replaces every home with an equal or better quality structure, but also addresses livelihoods, maintains community cohesion and ensures that everyone benefits from the existence of the mine.

Proposed Solution to address these issues:

- Mining companies should prepare resettlement plans to the highest international standards. MEM should also prepare and publish guidelines on the types of social survey and procedures to be followed in assessing the interests of residents on mine licence properties. Responsibility for enforcement must also be clearly defined.

Moreover, as part of the ESMF consultation, a Stakeholder consultation workshop was held on 29th December, 2014 at the Mwalimu Nyerere International Conference Center in Dar es Salaam. The workshop involved wide range of stakeholders from Local governments, government ministries and its agencies linked with mining industry, civil society organizations (women and children), mining organizations, NGOs and private sector. List of stakeholders involved and their comments raised as well as minutes of the workshop are attached in Appendix 2.

Additional Stakeholder Consultation will be done with the affected communities when preparing the site specific RAPs before and during the preparation of site specific the socio-economic study.

During the consultation with the affected communities their views on the mitigation measures will be taken into consideration. Therefore, a number of consultations will be done during the course of the RAP preparation. Consultation about the RPF was combined with that of the ESMF to ensure a broad discussion of the issues by affected communities, including district authorities, ward executive officer, village council members, and elected representatives of the villages in affected areas, and civil society groups.

**RAP Committee, including the Consultation Forum and Implementing Agent** The RAP preparation and implementation is done by the Consultation Forum and Implementation Agent, together making the RAP committee. The role of the Consultation Forum is to assist the Implementing Agent in the RAP implementation. The consultation Forum liaises between the affected communities and the Government and its implementing agent. The specific roles and responsibilities of these two bodies are explained below.

In addition to ensuring that proper consultation will be done, the Consultation Forum *has the* following key responsibilities:

- Ensure that the terms of the RAP are followed, monitor its implementation and suggest modifications if and when necessary;
- Assist in the finalization of a land use plan for the resettlement areas, if people are resettled to a new area;
- Facilitate land acquisition in both the Project Area and the host resettlement area;
- Agree on the principles of a means test to determine which households qualify for extended support;
- Agree, with the government, on the length of time over which support will be provided;
- Assist the government agents in identifying development opportunities that could enhance productivity, sustainability and economic viability in the Project area;
- Assist with recruitment of fieldworkers to help with the resettlement process;
- Hold regular meetings with the affected constituencies to explain the process of compensation and resettlement and provide implementation status updates; and
- Monitor the Project Area so as to prevent illegal encroachment after the cut off date, which will be established before the census for site specific the RAPs preparation.

## **2.4 The Project Principal and Implementing Agents**

Agents/consultants will be appointed by MEM to implement the various components of the any eventual resettlement. Agents appointed will be suitably qualified, with credible experience records, to undertake the tasks for which they have been appointed. These agents will be provided with the necessary financial resources to implement the resettlement and compensation process and will provide significant additional managerial and technical expertise. The role of implementing agents may be broken down into two distinct phases: pre-implementation and implementation.

### *Pre - Implementation Role*

During pre-implementation, The Project principal<sup>6</sup> will appoint implementing agents to undertake the following:

- Collect all data required to effect resettlement;
- Draw up Terms of Reference and contract all major planning services needed to effect resettlement;
- Project manage and financially support the development of the land-use plan for any host resettlement areas;
- Present, discuss and obtain approval for any developed land-use plans;
- Ensure that, as necessary, the consultation is carried out in the period following the finalization of the RAP and leading up to the Project Implementation Phase (during which detailed and final designs will be prepared); and
- Attend consultation meetings, and provide administrative support and *ad hoc* managerial and technical support as required.

The Consultation Forum and the Implementation Agent will work closely together.

### **Implementation phase:**

The Project principal will appoint implementing agents, which will include the provision of financial resources, to finance implementation of the RAP and implement the Project on behalf of the Government of Tanzania. This will be done via the establishment of a dedicated team (the same as Pre implementation). The team will have as its primary responsibilities the following:

- Draw up offer documents for each individual household affected;
- Discuss terms and conditions of resettlement with each household;
- Manage compensation and resettlement payments;
- Ensure that the principles of the RAP are respected;
- Provide technical and managerial support to RAP implementation where the Government of Tanzania is not able to make this available. This includes facilitation and co-ordination of the physical construction process and as well as the implementation of all resettlement mitigation measures;
- Establish a socio-economic monitoring program for the affected households;
- Identify households that are “failing” as a result of the resettlement impacts of the Project and, together with the Consultative Forum, defining and implementing appropriate corrective action;
- Attend consultation meetings and providing support and input as and when required;
- Address compensation and resettlement grievances;

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<sup>6</sup> The Project principals are responsible for the identification of project activities and will source and provide support from implementing agents, which in this context refers to consultants and the supported SSM and communities. MEM will not physically undertake most activities, apart from conducting training, but will provide guidance to consultants and supported miners/communities to ensure that they conform to the guidelines of the RFP.

- Establish and managing a local employment committee to ensure the maximization of employment opportunities during resettlement implementation for the local community and particularly for those households directly affected; and
- Define and implement community development and monitoring programs to ensure that affected households are not worse off in the post-implementation phase. The monitoring program will be undertaken with the assistance of a team of fieldworkers recruited from the community, and data collected for the RAP will form the baseline for the post implementation monitoring.

### **3 PROJECT RESETTLEMENT PRINCIPLES**

The following are the core principles that Project will adopt with respect to resettlement, which take account of the World Bank Social Safeguard Policies. The Tanzanian Ministry of Energy and Minerals further binds itself to these principles and will endeavour to ensure that they are adhered to by the implementing agents of the Project:

#### **Principle 1: Resettlement must be avoided or minimized**

The Project implementing agents will demonstrate that the proposed resettlement is both necessary and viable, and that its scope and extent cannot be lessened, to comply with the principle. Project boundaries should be made known to all interested and affected parties and should not be changed without sufficient consultation and notice.

#### **Principle 2: Genuine stakeholder consultation and participation must take place**

Given its focus on resettlement, the primary concern of the RAP is to uphold the rights and interests of the community that will be resettled. Structures and procedures are instituted for this to occur and discussed below. They are guided by the IFC Requirements for Resettlement Consultation – IFC Guidelines found in Appendix A.

#### **Principle 3: A Pre-Resettlement data baseline will be established**

To support the successful re-establishment of affected households, the following activities will be undertaken prior to property acquisition:

- An inventory of land holdings and immovable improvements (buildings and structures) will be carried out to determine sources of livelihoods and fair and reasonable levels of compensation;
- A census will be conducted, detailing household composition, demographics, and other relevant socio-economic characteristics.

The asset inventory will be used to determine and negotiate entitlements, while the census information is required to monitor household re-establishment. The information obtained from the inventory and census will be entered into a computerized database to facilitate resettlement planning, implementation and monitoring.

**Principle 4: Assistance with relocation is to be made available**

The SMMR Project implementing agents will provide transport for peoples' assets from the Project Area to the designated resettlement areas. This will include the transport of livestock should it not be possible to herd these to the new site.

**Principle 5: Fair and equitable compensation options must be negotiated**

Compensation will be paid for land and trees that are disturbed according to set rates. Compensation for other sources of livelihoods will be identified and compensated. No one will be resettled without full and fair compensation having been made. The SMMR Project implementing agents are further responsible for the construction of a set of agreed-upon infrastructure in the resettlement areas. These actions require that sufficient money and staff time for this purpose will be specifically allocated, such that they cannot be absorbed by other Project requirements. Primary responsibility for provision of services remains with the government.

**Principle 6: Resettlement will coincide with community development designed to benefit affected people**

The Project implementing agents should undertake community development initiatives designed to benefit the people potentially affected by the Project, including those affected by resettlement. Policies for employment, training, contracting and procurement should be structured to benefit the local community to the maximum extent feasible.

**Principle 7: Vulnerable social groups must be specifically provided for**

The Project implementing agents will ensure that the resettlement baseline study specifically identifies vulnerable social groups and makes provision for them to be included in the consultation. The Project implementing agents will make identify the affected communities and individuals to ensure that these groups are given the necessary protection to guarantee that they receive equitable access to resettlement resources. Furthermore, the Project implementing agents will pay particular attention to vulnerable social groups in the monitoring process.

**Principle 8: Resettlement must be seen as an "up front" Project cost**

Experience in development across the world shows that unless resettlement is built in as an "upfront" Project cost, it tends to be under-budgeted. The Project implementing agents will therefore ensure that compensation costs, as well as those resettlement costs that fall within its scope of commitment, are built into the overall Project budget and are clearly defined as such.

**Principle 9: An independent monitoring and grievance procedure must be in place**

In addition to the monitoring of the RAP implementation which will be done by the implementing agent with the assistance of the Consultation Forum, an independent team will undertake monitoring of the resettlement components of the Project that entail resettlement . Monitoring will specifically take place via measurement against the resettlement baseline, which will be collected once it is identified that a project under the AF will require land or will affect livelihoods. In addition, grievance procedures (explained below) are organized in such a way that they are accessible to all

affected parties, with particular concern for the situation of vulnerable groups. KEY Tasks for Resettlement planning .

## **TASKS**

This chapter details some of the key tasks that are required in a resettlement and compensation process, in order to (a) apply the principles defined above and (b) to be compliant with World Bank Policy requirements (OP 4.12). These tasks are considered critical in undertaking a successful resettlement programme and ensuring best practice. It is acknowledged that each resettlement project is unique and that tasks required for successful outcomes are likely to be project specific, *as outlined in a respective RAP*. However these tasks are aligned with internationally accepted norms in terms of best practise and are therefore regarded as the minimum that must be undertaken.

### **3.1 Task 1: Screening**

‘Screening’ may be defined as a pre-feasibility level assessment of the project and resettlement. This is necessary in order to provide some understanding of the scope of the likely resettlement arising from the Project, and to provide a preliminary analysis of the resettlement and defining a ‘way forward’ for the resettlement process where land acquisition for the Project is inevitable.

Initial screening of each sub project will be undertaken by Project Management Unit (PMU), in consultation with local communities, who will classify the sub project and level of investigation required. This assessment will take account of the extent of resettlement and compensation as well as the overall bio-physical and social implications of the sub project. By the way of background, the Project has identified 7 demonstration sites, as described in the Project Description above.

#### **3.1.1 Resettlement Arising from the Project**

No resettlement is expected at this stage of the Project. However, project-affected people could lose pieces of land on which they have structures, other assets, crops and trees. Some peoples’ livelihoods may be affected if they lose access to resources or areas from which they derive their income. Nonetheless, the following resettlement implications could arise from implementation of Project activities and discussed in Table 2 below:



### 3.2 Task 2: Authority and Stakeholder Consultation and Participation

Extensive consultation represents one of the cornerstones of the resettlement planning program. Consultation with PAPs and stakeholders is mandatory and the single most critical component in the resettlement process. The principles of consultation, that are to be applied by the Tanzanian Ministry of Energy and Minerals, have been adapted from guidelines provided by the Bank's policy for Involuntary Resettlement and that of the International Finance Corporation (IFC).<sup>7</sup> These principles are set out in Appendix A and in B, and conform with OP 4.12.

Effective consultation and participation has two components: the first is the timely dissemination of information regarding the Project and its resettlement implications. In this component, consultation is a one way movement of information from the Project, its sponsors and staff to the public. The second component is the two-way free flow exchange of information that gives stakeholders a chance to air their concerns and have a voice in the actual planning of the resettlement. It is the second component which is the most important in resettlement planning and implementation.

Successful resettlement ensures stakeholder participation during all stages of the resettlement. It is necessary that the Project management (PMU and the Implementing agent) identifies all stakeholders from an early stage in the Project. The Strategic Environmental and Social Assessment will inform the selection of groups for consultation, based on their levels of influence on the Project's activities. Notification and consultation process

When a subproject involves resettlement, an initial public meeting will be held in the project area to inform the affected community of the Project and of the potential for resettlement. This initiates the participatory process by disseminating information to the artisan minors in the area, the communities around the mining areas, local government and local NGOs. This initial public meeting will be advertised with notices placed in the areas of highest impact, such as the vicinity of the communities directly affected by the resettlement. Local authorities (e.g. local governments, relevant ministries) are informed about the public meeting and given an invitation to attend. Notice for the first public meeting will be given well in advance, with the minimum being at least a week prior to the meeting.

The first public meeting will serve as a consultation forum to introduce and explain the need for the census/socio-economic survey which will take place in the community.<sup>8</sup>

Prior to the completion of the census the Project must make formal application to the government for a moratorium on any further construction/development of new buildings or improvements to infrastructure in areas to be affected by the Project. This ensures that the area to be affected by the Project does not alter drastically between the period of the census and socio-economic surveys and the actual construction. In terms of public acceptance of the Project, it is good practice to ensure that the Project is not unnecessarily delayed at this stage, since delays have a negative impact on PAPs who have now been informed that they are not allowed to build or make improvements to their dwellings that will be compensated for. Revisions to project footprints that require an amendment to the moratorium must be avoided as far as possible. Where there are significant delays or changes to moratorium areas the Project implementing agent could find them facing claims for compensation based on inconvenience caused.

Once the RAP has been drafted it should be made available to the public though applies certain confidentiality principles, particularly as far as compensation is concerned. This can be undertaken

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<sup>7</sup> IFC Environment Divisions (1999) Doing Better Business through effective Public Consultation and Disclosure. A Good Practice Manual.

<sup>8</sup> The census and socio-economic survey are sometimes the same instrument and can be conducted as the same exercise. Stakeholder fatigue is minimized if these surveys are conducted together

as part of the ESIA public disclosure process, should the RAP be available by then. A further public meeting will be held in the area of the Project, describing the RAP and its implementation. At this meeting a pamphlet explaining the RAP should be made available.

### **3.2.1 Stakeholder Consultation Forum**

The Forum has already been discussed in Section 2.4 above.

With respect to the resettlement planning, it has the following functions:

- Be trained to function as an empowered and capacitated body;
- Be instrumental in the preparation of position papers, or proposals, to deal with such critical issues such as the replacement of housing, crop and tree compensation, graves and areas of ritual or spiritual significance, replacement land allocation, and job allocation amongst others;
- Participate in negotiation on resettlement;
- To make recommendations on the Entitlement Matrix developed for the RAP;
- Co-operate on the resolution of grievances and implementation problems;
- Facilitate authority and community participation and provide for communication channels for the dissemination of information;
- To act as the primary channel of communication between the various interest groups/organisations involved in the resettlement process. In particular, it will serve to facilitate communication between the client and the affected populace;
- To serve as the court of first appeal to solve any grievance that arises relating to the resettlement process. If it is unable to resolve any such problems, it is to channel them through the appropriate grievance procedures; and
- The Forum will liaise with, and also make such records, as well as minutes of meetings, available to the independent monitoring<sup>9</sup> team which undertakes to ensure unbiased observance of the resettlement process

The composition will be as follows:

- Representatives of the affected communities, which may include community leaders but these should be democratically elected. Gender equality is a pre-requisite.
- A representative of the SMMR Project implementing agent.
- Representatives from relevant district level government departments.
- Representatives at ward level as existing elected representatives.

The Forum meets as often as is deemed necessary, following standard accepted practices, and makes relevant documentation available to the Project implementing agent. The Forum will also make such records, as well as minutes of meetings, available to the independent monitoring team.

In order to support the Forum, grievance mechanisms are to be developed to address specific concerns about the resettlement and compensation process that are raised by stakeholders. This

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<sup>9</sup> Monitoring and the role of independent monitors is discussed in section 3.9.

grievance mechanism should provide structured dispute resolution methods that are agreed to by the Forum and provide for the timely redress of the grievance in an effective, fair and transparent manner. The proposed grievance redress mechanism is detailed in below

### 3.2.2 Grievance redress

Even with robust consultation and stakeholder, there may still be individuals and groups who will have grievances with respect to the process. Providing credible and accessible means for individuals or groups to relate their grievances is a sound mitigation measure to future conflict. Grievance redress mechanisms are ways in which individuals or groups who feel there have been an act of violation or omission of their rights can follow in order to get compensated. Since these projects have strong interaction with local communities, then there is a need to have effective redress mechanisms to deal with cases where project activities hamper community's rights or fail to deliver on promises. The land laws of 1999 introduced dispute settlement mechanisms for land matters that are independent of standard litigation processes. The Environment Management Act (EMA Cap 191) do also have clarified the rights of individuals to bring an action on the environment where anyone feels that there has been an act of violation or omission which is likely to cause harm to human health or the environment. However, there is no specific redress mechanism for investment related disputes that arise between investors and local communities. Hence SMMRP II will establish the process for settle of grievances basing on the general principles of the land laws and EMA Cap 191 and in accordance with this RPF. With respect to the disputes related to land acquisition or impact on livelihood if the affected person is not satisfied with the package offered or resettlement process, he or she can:

- Initiate a grievance process at the local level. The aggrieved person will first report his/her case to the Village and Ward Executive Committees who have a direct link with Zonal Mining Offices. All attempts shall be made to settle grievances.
- If the grievance is not resolved at this level within one week at this level,, the complainant will be referred to the Grievance Committee comprising one representative each from the Ward and Village Administrations, the Zonal Mining Office, one representative from the affected persons, and a community or religious leader from the community of the affected person. The following process is observed:
  - i) The affected person should file his/her grievance in writing, to the ward leader. The grievance note should be signed and dated by the aggrieved person. If the person cannot write, assistance must be provided.

(ii) The ward leader should notify the Grievance Committee and respond to the aggrieved persons within 14 days.

(iii) If the aggrieved person does not receive a response or is not satisfied with the outcome within the agreed time, s/he may lodge his/her grievance to the District Administration.

(iv) If no agreement is reached at this stage within 14 days, then the complaint can be taken through the formal court process. The maximum time between the time the complaint is initiated at the local village office and when the District Administration review and make a final decision should not exceed 40 days. In other words, if the complaint is not resolved within 40 days or any time in between the grieved person can continue through formal court process.

- The court shall exercise its power in resolving the complaint guided by the principles of the land laws and village act

### **3.2.3 Additional consultation**

Although the Forum is the primary vehicle for formal consultation, other forms of consultation are available:

- Each of the directly affected households may be interviewed via a structured socio-economic questionnaire. During the interview, the members of the household will be given background details on the Project. They will also be given the opportunity to state their concerns;
- Focus group discussions may be held in all villages to ensure that the primary concerns of the people are reflected in the RAP and suitable mitigation measures identified;
- Regular meetings with village government and elders can be held on an ongoing basis;
- Community meetings in support of the Forum representatives must be held in all directly affected villages;
- The Entitlement Matrix will be discussed in detail in each of the directly affected villages;
- Discussions must be held with villagers and PAPs to determine where they would prefer to resettle and to assist in the identification of replacement homestead plots and agricultural land.

### **3.3 Task 3: Identification and evaluation of resettlement sites**

If Resettlement requires the physical relocation of people to a new site or location the following will be undertaken. The process must be scheduled to begin early in the resettlement programme. The process of identifying and selecting potential resettlement sites will involve the Forum.

Consultation will target both the affected communities and the host communities where applicable. The process for the final selection of resettlement sites will probably be as follows:

- Discussion with the wards and or villages as to potential host resettlement sites;
- Presentation to the Forum and communities of the alternative resettlement sites, and initial discussion of their acceptability;
- Pre-selection of best candidate sites;
- Visits to pre-selected resettlement sites with the Forum;
- Selection of preferred sites in collaboration with the Forum;
- Validation of choice in Forum meetings.

Multiple resettlement sites will be considered and made available for individual households to select their preference, according to the following:

- Location;

- Access to natural resources;
- Maintenance of livelihoods and sources of income (including access to markets);
- Maintaining community structure;
- Continued access to existing economic activities;
- Impacts on host communities;
- Land ownership and tenure rights.

In the event that dedicated resettlement areas are required, the Project implementing agent will:

- Identify areas suitable for resettlement, in conjunction with the relevant local and district government officials. These will then become designated as host resettlement areas;
- Complete a land-use survey to determine who is currently living in the host resettlement areas, the location of graves, the ownership of trees and, ultimately, the land available to those to be resettled;
- If appropriate/necessary, complete an assessment of the impact of resettlement on the host resettlement areas;
- Record the above information on a spatially linked GIS database; and
- Finalize a concept settlement plan for the host resettlement areas.

Local government agents, for example, The District Planning Officer and District Town Planner, should be closely involved in this process.

#### **3.4 Task 4: Determination and negotiation of entitlements and compensation**

The resettlement process is required to identify households, individuals and communities that are deemed to be entitled to compensation. The nature of the entitlement will vary between each individual and household, and will be based on specific entitlement criteria. An indicative Entitlement Matrix can be found in Appendix H.

Affected households, individuals and communities are entitled to compensation based on agreed values, replacement rates or suitable replacement of assets. Multiple compensation options should be discussed with affected parties via the Forum in order to obtain agreement on the adequacy and acceptability of the compensation package. Compensation valuations or replacement rates should focus on the following:

- Compensation options in terms of replacement of homesteads and structures;
- Loss of business premises and opportunities;
- Other assets and improvements, including trees and standing crops;
- Options for the relocation of graves and sites of cultural, historical or religious importance;
- Relocation and replacement of any community structures (e.g. schools and health centres);
- Costs associated with relocation as well as inconvenience.

With regard to land and structures, "replacement cost" is defined by the World Bank as follows: For houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labour and contractors' fees, plus the cost of any registration and transfer taxes. In determining the replacement cost, depreciation of the asset and the value of salvage materials are not taken into account, nor is the value of benefits to be derived from the project deducted from the valuation of an affected asset. For agricultural land, it is the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes. For land in urban areas, it is the pre-displacement market value of land of equal size and use, with similar or improved public infrastructure facilities and services and located in the vicinity of the affected land, plus the cost of any registration and transfer taxes. Where domestic law does not meet the standard of compensation at full replacement cost, compensation under domestic law is supplemented by additional measures so as to meet the replacement cost standard

### 3.4.1 Valuation process

Compensation is generally the most scrutinised component of resettlement and critical in terms of the cost implications for the **Project** implementing agent. Thus the methodologies and outcomes in terms of the valuation procedures should be transparent and negotiated by the Consultative Forum. This section provides a framework for detailed valuation procedures to be developed in the RAP and in consultation with the Forum. Appendix B outlines a typical compensation valuation approach that can be revised and amended to suit the Project specific requirements.

The valuation of assets that may be lost during resettlement will be a sensitive issue and it should be done with care and rigour. This is of particular relevance in cases where compensation may include multiple options including replacement (land and structures for land and structures) or monetary compensation. The general approach to the valuation procedures is summarised below:

- **Identify eligibility under national guidelines:** All relevant legislation, policy and valuation guidelines defined by the relevant government department and s will need to be identified. This will form the basis for the identification of eligibility to compensation and valuation methodology;
- **Asset survey:** The asset survey will determine the assets owned by affected individuals, households or communities. This survey will provide the baseline information needed in order to determine the compensation package provided to each person;
- **Valuation methodology:** The valuation process will involve the assessment of national guidelines, international best practice and negotiation of compensation rates via the Forum. The outcomes of this process should be a set of practical and measurable values/rates, or valuation procedures, for each asset category;
- **Value and types of compensation:** Set values/rates or valuation procedures should be ratified by the Consultative Forum and the relevant authority prior to any compensation. In addition to compensation for the market value of land, GN 78 of the Land Act of 1999 allows for compensation in the form of an accommodation allowance, loss of profit allowance, disturbance allowance and/or transport allowance, where land is acquired by cash payment;
- **Entitlement contracts:** Contracts will be produced for affected individuals that will contain a summary of all their assets, adopted compensation rates or options and final valuations.

### 3.4.2 Eligibility

All potential Project-affected people need to be identified and defined in terms of eligibility. Categories of eligibility are then allied to entitlement within the entitlement framework. According to the WB classification, displaced persons associated with the SMMRP-II fall within one of the following three groups:

- a) Those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country). In the case of Project, those communities previously utilizing artisanal mining areas would have had customary or traditional rights for agricultural and other community purposes. Categories of eligibility will include those who will potentially be displaced. Displacement refers to both physical as well as economic displacement. Other legal holders of rights could include those who have been granted legal exploration or mining concessions by the government. Host communities also form a potential category under eligibility, according to the level of resource or income loss on these communities.
- 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 laws of the country 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. In the case of the Project this could include squatters (who may be illegally mining or cultivating land) on the property.

Persons covered under paragraphs a) and b) above are provided compensation for the land they lose, and other assistance in accordance with the RAP. Persons covered under paragraph c) are provided 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 borrower and acceptable to the Bank. Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance. All persons included in the above three paragraphs will be provided compensation for loss of assets other than land.

### 3.4.3 Household and community surveys

A critical aspect in developing a resettlement plan is to determine the existing socio-economic context of affected households and communities. This is a quantitative exercise that should be undertaken in order to create a baseline socio-economic profile of each household. This will allow for the design of appropriate resettlement and compensation protocols. The census and inventory of assets are used to establish baseline information on household income, livelihood patterns, standards of living, and productive capacity. This baseline information constitutes a reference point against which income restoration and the results of other rehabilitation efforts can be measured. To accomplish this, a suite of socio-economic studies is necessary, including:

**Census:** A census will be undertaken of affected households to provide socio-economic and demographic baseline information. The information that should be collected includes household demographics, family structure (relation, age, residence status, occupation), and household livelihoods and economic information (income, occupation). The census performs numerous important tasks, including:

- The enumeration and collection of basic socio-economic information of the affected population;
- The registration of the affected population as per their residency or locality;

- The establishment of legitimate beneficiaries of compensation entitlements, thereby countering spurious claims made by those moving into the Project area in order to benefit from compensation payments;
- Providing data from which a framework can be created for any subsequent socio-economic research that may be required in establishing compensation rates, income restoration measures or development interventions; and
- Providing a socio-economic baseline for monitoring and evaluation;
- Identifying people and households considered to be vulnerable.

**Household survey and Household Asset Inventory:** The asset inventory records all permanent and temporary losses likely incurred by households, enterprises and communities as a result of the proposed project. This inventory will focus on individual, household and community losses of physical structure or natural resources. It can be combined with the census. Data collected include:

- Homesteads and homestead structures. This involves the collection of detailed and accurate information on primary living structures (use, size, materials used) and secondary structures (poultry coops, toilets and others);
- Trees and natural resources: An inventory of tree ownership by household must be undertaken in order to determine the subsistence or commercial value of these assets;
- Graves associated with each household. The number and types of graves and cemeteries must be identified and ownership determined;
- Community land and natural resources;
- Sites of cultural or historical importance;
- Garden lots: Mapping should be undertaken to determine the size and use of garden lots for each household (e.g. growing vegetables, or other economic activity);
- Community infrastructure: During these surveys, all community related structures must be noted so as to be included in the compensation process;
- Economic Access: In particular this will concentrate on any economic disruption of households that may occur due to the development of the Project. Disruptions may be loss of access to resources and/or features used for economic purposes;
- Attitudes towards Project: Scope will be given in the survey to assess households' responses toward the actual Project, allowing individual households a chance to raise concerns and to express opinions about the Project and its resettlement component/s.

The household survey will also provide a complete inventory of the household's economic activities such as:

- Household income and expenditure: Average annual incomes, average expenditure on major items such as food and transport that households are party to;
- Service facilities: Basic facilities such as electricity, potable water and the means by which it is acquired, sanitation, access to health and education facilities;
- Household Skills and Employment: Skills of each household member, training or education and the current employment status of household members.



The survey must be conducted by a suitably qualified organisation. Enumerators should, where possible, be chosen from the affected community and should be chosen so as to suit cultural and cross-cultural compatibility. Selecting enumerators from the affected community ensures that the community benefits in terms of work, and that the Project obtains accurate data as the enumerators are already cognizant of the community's general socio-economic status.

**Additional Socio-economic studies:** Socio-economic studies are usually undertaken as a social impact assessment (SIA) in the environmental impact assessment (ESIA) process. These studies focus on determining local socio-economic patterns, livelihood strategies, income streams, labour, community structures, cultural and religious practices. In this instance the RAP survey will include aspects of importance to the SIA.

**Preparation of a Database:** In order to ensure that all the resettlement data is well managed and readily available, a database should be created. All the information collected in the various surveys should be entered into the database and later used for analysis as well as to determine appropriate compensation. The database allows for easy cross referencing of numerous indicators and enables project planners to see broad trends in the affected community's socio-economic status and thereby plan resettlement more effectively.

**Mapping:** Depending on data availability, the resettlement process should preferably be spatially referenced and supported by a Geographic Information Systems (GIS) interface and field mapping. Maps may include both socio-economic spatial patterns and natural features (such as vegetation and soils) of the resettlement site and host site. As such, GIS should be adopted for integrating all spatial elements of the resettlement into an easy to use interface.

The GIS should provide a useful and user friendly system for the management, record keeping and analysis of spatial patterns for key resettlement assets (e.g.: location of graves, garden lots of households and other infrastructure). Incorporating such spatial data with the Project plans will also allow for the refinement of resettlement plans.

### **3.5 Task 5: Income restoration and sustainable development initiatives**

Livelihood replacement can be the most complex part of any resettlement programme. Although compensation for businesses and livelihood enterprises does go some way towards ensuring that the physical assets that make up livelihood structures are replaced, it does not guarantee that physical displacement does not negatively impact on livelihood viability. Where it can be reasonably guaranteed that access to livelihoods is not jeopardised by the physical resettlement process for PAPs, then this livelihood will be deemed to have been retained and need not be subject to a restoration programme. However, the onus will be upon the Project implementing agent to demonstrate that this has occurred.

Economic displacement and disruption of livelihoods is often an 'invisible' impact of resettlement. In essence, resettlement may lead to the disruption of income-earning capacity or livelihood strategies such as subsistence farming. Often the restoration of income streams and livelihoods lost during the resettlement is difficult to value and thus often overlooked. The RAP survey will determine the degree to which livelihood replacement programmes may need to be implemented. This will be allied to the selection of the host resettlement site that will determine how viable peoples' current livelihood practises are in a new residential setting.

The resettlement process will need to be undertaken as a sustainable development initiative, i.e. an initiative that improves the standard of living of project-affected people. This will act as a means of restoring and, if possible, improving economic opportunities and promoting long-term development. The overall aim of any initiative is to ensure that the affected peoples' livelihoods and living standards are restored as closely as possible or they are better-off than they were prior to resettlement. Therefore, over and above compensation for assets, the Project implementing agent

will intervene to satisfy the requirements of international best practice and to maximize positive opportunities. Two major initiatives are required:

1. Income Restoration Plan
2. Community development

### **1. Income Restoration Plan**

Income restoration is of critical importance in order for the Project implementing agent to fulfil its objective that persons displaced by the Project at least restore their income-earning capacity. In particular, the income restoration plan must ensure that vulnerable groups are helped to succeed in the post implementation phase. Income restoration programmes might have a myriad of potential opportunities and are likely to be highly project specific. Appendix C sets out potential programmes that could be investigated.

### **2. Community Development**

A key requirement of World Bank OP 4.12 is that “all involuntary resettlement should be conceived and executed as development programmes”. The emphasis of community development is, therefore, on economic and social development with income restoration and generation, not merely on compensation and replacement of affected household assets. Key objectives of community development are:

- To stimulate long-term community and economic and social development programs among those to be resettled and host communities that will lead to integrated development and the establishment of sustainable local communities; and
- To seek ways of building mutually beneficial linkages between the Project implementing agent support of community development and other development initiatives in the district and region so as to obtain maximum leverage for the affected people from all initiatives.

Although possible development strategies may be suggested at this stage by external experts, the actual strategies adopted will result from a considered approach developed by the Project implementing agent together with local communities and regional stakeholders.

RAP related community development will apply to the following entities. These are listed below in descending order of priority<sup>10</sup>:

- The affected households within the Project area as well as those affected by the additional infrastructure required for the Project operation;
- The host resettlement area; and
- The households residing outside of the Project Area but who have some land<sup>11</sup> within the Project Area.

Community development programs would probably reflect the order of priority with the most directly affected population receiving higher proportional spending than the less/indirectly affected

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<sup>10</sup> The Social Impact Assessment, as part of any projects ESIA, will identify community development programs for communities affected by other impacts of the project that exclude resettlement.

<sup>11</sup> This refers to households with most of their land (i.e. sources of livelihood) outside the project area. Households with most of their land within the project area fall within the first group.

populace. Initially it will be necessary to have community development focus on a series of identified pilot projects, so as to ensure that the projects are of a manageable size and scope. With careful monitoring and evaluation the benefits of these projects can be quantified. Qualified evaluation should also allow for the projects to be refined and, if shown to be successful, to be duplicated in appropriate areas. Community development programmes may overlap with income restoration projects, and in fact frequently do. However the two programmes should not become mixed and, for monitoring purposes, care must be taken that the beneficiaries of each aspect can be separately identified.

### **3.6 Task 6: Resettlement planning, scheduling, budget and responsibilities**

The RAP should provide detailed information in terms of resettlement planning, schedules, budget and responsibilities. These various components should be developed based on the outcomes of the previous steps, and negotiated and ratified by the Forum and relevant authorities. Some of the key factors that need to be defined include:

- **Resettlement Planning:** Define overall strategy in terms of resettlement, likely phasing and means of compensation;
- **Scheduling:** Define timing for resettlement in terms of the physical resettlement, payment of any cash compensation, and ensure it aligns with any engineering works required by the Project;
- **Budget:** Resettlement costs are often underestimated and thus major line items for the implementation of the resettlement should be provided.

### **3.7 Task 7: Preparation of the written Resettlement Action Plan**

The Resettlement Action Plan (RAP) is the report that provides a synthesis of the outcomes of the above tasks. The RAP should function as a practical and useful management plan for the planning, implementation and monitoring of the resettlement process. A recommended Table of Contents for the RAP is given in Appendix D.

The RAP should be subject to scrutiny by all relevant stakeholders including affected households, local communities, and relevant authorities and, if needed, peer review. This will form part of the authority and community consultation process. The RAP will thus need to be released to the public.

In terms of ensuring that affected households and local communities are sufficiently empowered, it is essential that consultative mechanisms are in place. Given the relatively low levels of literacy in many parts of Tanzania it is envisaged that the document will be presented to the stakeholders and their representatives in the form of verbal presentations.

### **3.8 Task 8: Initiation of resettlement and compensation**

Physical resettlement and compensation should be initiated in line with the RAP. In general the actual resettlement should only commence when the Project is confirmed but prior to any civil works. Overall responsibility for the implementation of the RAP will lie with the Project implementation agent through their resettlement team, with close co-operation from local authorities. It is envisaged that at least part of the implementation work will be carried out as work packages. In this regard, a series of discrete parcels of work are envisaged. These are:

- Project management (this could include external contractors or an internal team with specialist external support);
- Preparing offer documents and contracts, and acquiring replacement land (by the SMMR Project implementing agent legal personnel with external support for government or by external contractors);
- Town planning (by a local contractor);
- Building of replacement housing (likely by contractors from the region);
- Relocation of graves (likely by contractors from the region);
- Transporting of those to be resettled (likely by contractors from the region);and
- Advising on replacement *mashamba* preparation (likely by an agricultural specialist).

A critical player in the successful implementation of the resettlement will be the Resettlement Project Manager. The major tasks of the Resettlement Project Manager will be to:

- Undertake the assignment in accordance with the Project implementing agent management standards. This specifically includes safety management. It should be noted that no business activity will take precedence over the safety of staff or members of the public;
- Oversee the resettlement of households in accordance with best practice as defined in the Resettlement Action Plan document. This will include the resettlement of all people, graves and possessions from their old homesteads to new homesteads;
- Manage the scope and cost of the resettlement;
- Ensure coordination between contractors;
- Liaise with consultants as necessary to ensure that resettlement objectives are achieved.

The Resettlement Project Manager will be supported as necessary by internal and external specialists.

### **3.9 Task 9: Monitoring**

In order to assess whether the goals of the resettlement and compensation plan are being met, a monitoring plan will be required as part of the resettlement process. Such a plan would include monitoring criteria, milestones and the resources needed to carry out the monitoring. Monitoring primarily involves the systematic use of information to determine the extent to which plans are being implemented effectively.

The Project is responsible for providing the necessary funds required for the monitoring programme. Monitoring and supervision of resettlement are critical to its success. As stated by The World Bank, the role of monitoring in the resettlement process is critical:

*“Because of the myriad social and economic contingencies that arise during project implementation, resettlement is better conceived not as a rigid blueprint, but as a learning process in which tentative plans are adapted responsively to unfolding obstacles and opportunities” (WB 2004:205).*

In accord with international best practice a system of external as well as internal monitoring will be designed and implemented by the Project implementing agent.

### **3.9.1 Internal monitoring**

Internal performance monitoring is an internal management function allowing the project management (or agency elected to implement the RAP) to measure physical progress against milestones set out in the RAP. Internal monitoring should be conducted by a suitably qualified person/s within the Project. In a similar manner the affected community should be responsible in part for their own monitoring through the Forum. Quarterly progress reports should be written by the internal evaluators to monitor progress made toward mitigating adverse social impacts. The aim of the internal resettlement impact monitoring will be to determine the socio-economic status of the directly and indirectly affected communities, in order to gauge whether the RAP is having the desired effect. Specifically, the following need to be monitored:

- Ensure that due process has been followed in the notification of stakeholders with adequate public meetings being held;
- Verify that there are no outstanding or unresolved land acquisition issues regarding the Project or any of its subprojects, that the census of all PAPs has been carried out, that the RAP and socio-economic survey has been prepared, and that property valuation and resettlement has been carried out in accordance with the provisions of the RPF;
- Maintain records of any grievances that require resolution;
- Oversee that all resettlement measures are implemented as approved by the project management and the Forum;
- Verify that funds for implementing resettlement activities are provided in a timely manner, are sufficient for their purposes, and are spent in accordance with the provisions of the RPF;
- Document timely completion of Project resettlement obligations (i.e. payment of the agreed-upon sums, construction of new structures.) for all permanent and temporary losses, as well as unanticipated, additional construction damage, while updating the database with respect to any such changes; and
- Ensure that monitoring and evaluation reports are submitted.

Internal monitoring will have both qualitative and quantitative components

#### **Qualitative Monitoring**

Baseline data exists by virtue of socio-economic household-based studies and data derived from a series of interviews. By way of summary these studies include, *inter alia*:

- Households to be resettled from the Project Area;
- Households not resident within the Project Area but having land within the Project Area;

- ASMs where applicable; and
- Households in the areas identified as suitable for resettlement.

The above make up the population regarded as “directly affected” in terms of losing assets or livelihoods. The socio-economic situation of the directly affected populace will be monitored via a system of measuring variables indicating change. In order to do this and for the purposes of internal monitoring an appropriately sized random sample will be selected of the directly affected population. Data collected will be stored in a database.

### **Participatory (Quantitative) Social Impact Monitoring**

The participation of the affected population in monitoring and evaluation is essential. As such the monitoring program will include a Participatory Monitoring and Evaluation (PME) exercise. PME design will follow international guidelines for participatory workshops.

Key variables that will be examined include:

- Attitudes to key resettlement initiatives (adequacy of compensation, housing, infrastructure and services);
- Perceptions and suggestions relating to Project impacts, both negative (e.g. development of social pathologies such as crime, alcoholism and STDs) and positive (e.g. improved income generation, access to services);
- Disturbances to social practices and the fabric of local communities (influx of job-seekers, informal settlements);
- Pressure on traditional authorities to maintain their powers;
- Satisfaction levels regarding the level of community participation and consultation;
- Host community concerns relating to the influx of those to be resettled;
- Degree to which informed consent regarding resettlement designs was obtained;
- Degree of autonomy of affected community leadership structures;
- Development of unsustainable dependencies (e.g. ongoing provision and maintenance of services by the Project, payment levels for services by the affected community), and
- Sustainability of natural resource utilization patterns in Project and host areas.

### **3.9.2 Independent monitoring**

The Project implementing agent will ensure that the monitoring of resettlement is undertaken internally and also by a third party monitor appointed by the Project implementing agent and the Forum to undertake regular audits. External Independent Monitoring, which takes the form of effects and impact monitoring, should be conducted bi-annually for at least two years following resettlement by an independent consultancy academic or research institution or an NGO, who have the appropriate resettlement experience. Funds for external monitoring should be provided under the project’s budget and should be assigned from Project inception. The external monitoring component will evaluate socio-economic conditions of the PAPs against the baseline data established prior to the resettlement - updated annual socio-economic (household) surveys will be required to obtain the comparison. This will allow for corrective actions to be put in place where

PAPs have been subject to impoverishment induced by Project operations. In accordance with international best practice, the role of this monitor will be defined in the Terms of Reference approved by the Forum, but it will have a mandate that includes the following:

- Ensure that replacement housing for those who have had to move is of an adequate replacement standard;
- Ensure that in-kind compensation or monies paid to households who have lost crops, and other forms of livelihood production has been fair; and
- Ensure that where land has been acquired by the Project that the households affected have been afforded suitable replacement land.
- Review existing processes developed by the Project implementing agent and the Forum in comparison with World Bank Guidelines and recognized best practice;
- Review and make recommendations on the RAP;
- Track progress towards the completion of critical actions as defined in the RAP;
- Review the trends in the qualitative and quantitative components of the Project implementing agent monitoring process and identify improvement opportunities where necessary;
- Track progress towards the completion of corrective actions arising from the Project implementing agent monitoring;
- Make recommendations regarding the Project implementing agent monitoring; and
- Complete and report on audits at defined intervals.

In addition to quantitative indicators of the performance of the RAP, qualitative indicators should be assessed to ascertain the relative satisfaction of the affected peoples. This should be done through direct consultation by the evaluators with the affected community through focus group discussions with the Forum or similar forums representative of PAPs established by the Project management for this task.

The monitor must write its reports before the end of each visit and submit the report to the Project Manager and the Forum. The monitor should structure reporting in conjunction with a relevant and viable set of variables.

Both internal and external monitoring reports should be used to assess whether any changes should be made to the RAP in its implementation. This should be done in consultations between the Project management and the Forum. Monitoring reports are a valuable tool in identifying problems in the implementation of the resettlement project and should be used as such. The Forum and Project implementing agent should meet after each monitoring exercise to consult over findings of the monitoring evaluation and whether steps should be taken to rectify issues that have been highlighted by the monitoring reports.

### **3.9.3 Completion audit**

Depending on the scale of the displacement a completion audit may be necessary. This is a third party audit undertaken to evaluate whether the RAP has been implemented according to the resettlement policy framework and that it is in compliance with domestic laws (if applicable) and International Best Practice. The audit will also evaluate whether any mitigation measures prescribed in the RAP have had an ameliorating affect. The socio-economic status of the affected peoples

should be measured against the baseline indicators established during the baseline socio economic survey.

The completion audit verifies whether:

- There has been genuine consultation and participation with affected communities;
- The terms of the RAP have been fulfilled;
- That grievance procedures have been followed; and
- That PAPs (including ASMs) have not been left worse-off (financially and socially) than prior to resettlement. This will include assessment of changed socio-economic circumstances as identified in the updated annual household surveys referred to in Section 3.9.2. The following two points:



## 4 CONCLUSION

In the cases in the world where resettlement has been successful, the process has been characterised by a number of best practice enabling factors as follows:

- An appropriate understanding of the complexities of resettlement;
- Proper legal and policy frameworks at national level;
- Adequate funding;
- Sufficient capacity, including experience in working with resettlement;
- Genuine consultation and negotiation with the affected people;
- Rigorous and effective planning, implementation and monitoring;
- Integration of the resettlement project into its regional economic and political context;
- The necessary political will to ensure that the above enabling factors are obtained, and that resettlement is properly carried out.

International experience on World Bank projects shows that, unless these best practice factors are obtained, resettlement exposes affected people to a range of risks such as: landlessness, homelessness, joblessness, economic and social marginalisation, increased morbidity and mortality, food insecurity, loss of access to common property resources, and social and cultural disarticulation/disruption.

This report has taken account of the above factors so that the RPF for the Project has the greatest likelihood of success. Although no resettlement is envisaged by the Project in the short-term, this framework has been prepared to manage this appropriately should resettlement arise. In particular, the RPF adopts a practical approach, as reflected in the body of the report as well as the supporting appendices, so that the policies are applicable to the Project - these key tasks for appropriate resettlement planning include the following:

- Requirements for screening (possible scope of resettlement);
- Requirements for the establishment of genuine channels for consultation;
- Grievance redress;
- Identification and evaluation of resettlement sites;
- The process for the determination and negotiation of entitlements and compensation;
- The process for asset valuation;
- Determination of eligibility of people to enjoy protection under the auspices of the Resettlement Action Plan (RAP);
- A methodology for conducting household and community surveys;
- Requirements regarding income restoration and community development initiatives;
- Requirements for implementation schedules and budgets for the RAP;
- The development of the RAP;

- Initiation of resettlement;
- Monitoring and evaluation of the efficacy of resettlement

The Project will improve the opportunities of many within the ASM sector. If the risks of resettlement are incorporated as part of Project planning and design, then these can be turned into development opportunities resulting in resettlement with development.

## Appendix A Entitlement Matrix

Land and Assets	Types of Impact	PAP	Compensation
<b>LAND</b>			
Agricultural Land	Less than 20% of land holding affected	Land Owner	Cash compensation for affected land equivalent to replacement value, taking into account market values for the land.
	Land remains economically viable.	Tenant/ lease holder	Cash compensation for the harvest or product from the affected land or asset, equivalent to average market value of last 3 years, or market value of the crop for the remaining period of tenancy/ lease agreement, whichever is greater.
Agricultural Land	More than 20% of land holding lost OR Less than 20% of land holding lost but remaining land not economically viable	Land Owner	Land for land replacement where feasible, or compensation in cash for the entire landholding according to PAP's choice equivalent to replacement value, taking into account market values for the land.  Land for land replacement will be in terms of a new parcel of land of equivalent size and productivity with a secure tenure status at an available location which is acceptable to PAPs. Transfer of the land to PAPs shall be free of taxes, registration, and other costs.  Relocation assistance (costs of shifting + assistance in re-establishing economic trees + allowance up to a maximum of 12 months while short- term crops mature )  Relocation assistance (costs of shifting + assistance in re-establishing economic trees + allowance up to a maximum of 12 months while short-term crops mature).
		Tenant/ holder	Lease Cash compensation equivalent to average of 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.  Relocation assistance (costs of shifting + assistance in re-establishing economic trees + allowance up to a maximum of 12 months while short-term crops mature.

Land and Assets	Types of Impact	PAP	Compensation
		Non-title-holder (eg Pastoralists)	Grazing area replacement to land of sufficient carrying capacity to sustain herd size, with support infrastructure. Secure tenure status at an available location which is acceptable to PAPs. Transfer of the land to PAPs shall be free of taxes, registration, and other costs.
Commercial Land	Land used for business partially affected	Title holder/ business owner	Cash compensation for affected land taking into account market values for the land.  Opportunity cost compensation equivalent to 5% of net annual income based on tax records for previous year (or tax records from comparable business, or estimates where such records do not exist).
	Limited loss	Business owner is lease holder	Opportunity cost compensation equivalent to 10% of net annual income based on tax records for previous year (or tax records from comparable business, or estimates where such records do not exist)
Commercial Land	Assets used for business severely affected	Title holder/business owner	Land for land replacement or compensation in cash according to PAP's 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. Cash compensation is equivalent to replacement value, taking into account market values for the land.
	If partially affected, the remaining assets become insufficient for business purposes		Transfer of the land to the PAP shall be free of taxes, registration, and other costs.  Relocation assistance (costs of shifting + allowance).  Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (or tax records from comparable business, or estimates).

Land and Assets	Types of Impact	PAP	Compensation
		Business person is lease holder	<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.</p> <p>Relocation assistance (costs of shifting).</p>
Residential Land	Land used for residence partially affected, limited loss	Title holder	<p>Cash compensation for affected land equivalent to replacement value, taking into account market values for the land.</p> <p>Remaining land viable for present use.</p>
		Rental/lease holder	<p>Cash compensation equivalent to 10% of lease/ rental fee for the remaining period of rental/ lease agreement (written or verbal).</p>
		Title holder	<p>Land for land replacement or compensation in cash according to PAP's choice, equivalent to replacement value, taking into account market values for the land.</p> <p>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.</p> <p>When the affected holding is larger than the relocation plot, cash compensation to cover the difference in value.</p> <p>Transfer of the land to the PAP shall be free of taxes, registration, and other costs.</p> <p>Relocation assistance (costs of shifting + allowance).</p>

Land and Assets	Types of Impact	PAP	Compensation
Residential Land	Land and assets used for residence severely affected	Rental/lease holder	Refund of any lease/ rental fees paid for time/ use after date of removal.  Cash compensation equivalent to 3 months of lease/ rental fee.
	Remaining area insufficient for continued use or becomes smaller than minimally accepted under zoning laws		Assistance in rental/ lease of alternative land/ property.  Relocation assistance (costs of shifting + allowance)
<b>ASSETS AND IMPROVEMENTS</b>			
Buildings and structures	Structures are partially affected	Owner	Cash compensation for affected building and other fixed assets based on its replacement value without including depreciation, and taking into account market values for the structures and materials.  Cash assistance to cover costs of restoration of the remaining structure
	Remaining structures viable for continued use	Rental/lease holder	Cash compensation for affected assets (verifiable improvements to the property by the tenant).  Disturbance compensation equivalent to two months rental costs.
	Entire structures are affected or partially affected	Owner	Cash compensation for entire structure and other fixed assets without depreciation and taking into account the market value, or alternative structure of equal or better size and quality in an available location which is acceptable to the PAP.
	Remaining structures not suitable for continued use		Right to salvage materials without deduction from compensation.  Relocation assistance (costs of shifting + allowance).  Rehabilitation assistance if required (assistance with job placement, skills training).

Land and Assets	Types of Impact	PAP	Compensation
		Rental/lease holder	<p>Cash compensation for affected assets (verifiable improvements to the property by the tenant).</p> <p>Relocation assistance (costs of shifting + allowance equivalent to four months rental costs).</p> <p>Assistance to help find alternative rental arrangements.</p> <p>Rehabilitation assistance if required (assistance with job placement, skills training).</p>
		Squatter/informal dweller (including on road reserves)	<p>Cash compensation for affected structure without depreciation.</p> <p>Right to salvage materials without deduction from compensation.</p> <p>Relocation assistance to a place where he/she can reside and work legally (costs of shifting + assistance to find alternative secure accommodation preferably in the community of residence through involvement of the project).</p> <p>Rehabilitation assistance if required assistance with job placement, skills training).</p>
		Street vendor (informal title or lease to the stall 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.</p> <p>Relocation assistance (costs of shifting).</p> <p>Assistance to obtain alternative site to re- establish the business.</p>

Land and Assets	Types of Impact	PAP	Compensation
Standing Crops	Crops affected by land acquisition or temporary acquisition or easement	PAP owner, tenant, or squatter)	(whether Cash compensation equivalent to average of last 3 years market value for the mature and harvested crop
Trees	Trees lost	Title holder	Cash compensation based on type, age and productive value of affected trees plus 10% premium
Community Assets (i.e. burial grounds, other community assets such as boreholes, troughs	Graves might need to be moved; community properties affected by land acquisition.	Community members	Cash compensation and assistance to move the graves, including the cost of special ceremonies for such move. For community buildings and assets, cash compensation or replacement of the infrastructure or assets based on the consultation with the affected groups
Place of worships as well as objects with special cultural and traditional importance.	Loss of special artefact, place of worship or rituals		The removal of these assets and objects should be done with full participation of those impacted. Any expenses for moving or preserving these assets should be included.
<b>TEMPORARY ACQUISITION</b>			
Temporary Acquisition	Temporary Acquisition	PAP owner, tenant, or squatter)	Cash compensation for any assets affected (e. g. boundary wall demolished, trees removed)  Cash compensation for the harvest or product from the affected land or asset, equivalent to average market value of last 3 years, or market value of the crop for the period effected and any longer terms effects as a result of limited ability to replant etc.
		Business person is lease holder	Opportunity cost compensation equivalent to 5% of net annual income based on tax records for previous year (or tax records from comparable business, or estimates where such records do not exist).



In addition, Vulnerable Groups will be assisted through capacity building and help during the RAP implementation to adapt to new environments, including assistance with moving, cultivating, livelihood restoration, restoring assets, etc.

## Appendix B:

### **REPORT OF THE STAKEHOLDERS CONSULTATION WORKSHOP ON ENVIRONMENTAL AND SOCIAL FRAMEWORK FOR SMMRP II**

**HELD AT JULIUS NYERERE INTERNATIONAL CONVENTION CENTRE (JNICC), IN  
DAR ES SALAAM**

**29th December 2014**

#### **1. INTRODUCTION**

The Government of the United Republic of Tanzania through the Ministry of Energy and Minerals has been implementing the Sustainable Management of Mineral Resources Project (SMMRP) since 2009. The Project is in line with the Government drive to improve overall management of the Mineral Sector to maximize benefits to the investors and the nation as a whole. Phase one of the project is due to end in June, 2015.

On January 2014, The GoT requested the Bank to consider additional financing to expand some activities to scale-up the project's poverty reduction impact and development effectiveness.

The additional funding in phase two will maintain and enhance the implementation the original four project components, which are:

- I) Improving the benefits of the Mineral Sector for Tanzania: Artisanal and Small-Scale Mining, Local Economic Development and Skills Development;
- II) Strengthening Governance and Transparency in Mining
- III) Stimulating Mineral Sector Investment; and
- IV) Project Coordination and Management.

As a prerequisite for the World Bank funded projects, environmental and social impact assessments of the project need to be carried out. Hence a framework was prepared that identifies both, the various adverse and favourable impacts that may result during and after implementation of the SMMRP II and builds up mitigation plans to reduce and avoid the adverse impacts and also proposes enhancements of positive benefits identified.

Objective of the Environmental and Social Management Framework (ESMF) is to ensure that implementation of the SMMRP II is carried out in an environmentally and socially sustainable manner.

Since ESMF will be one of the guidance documents in dealing with environmental and social management, the World Bank Safeguard Policy for Environmental Assessment (OP/BP 4.01) requires a Public consultation to be undertaken in all stages of project implementation. A one day consultation workshop was conducted in line with this requirement.

The participants of the workshop came from the Government institutions, Private institutions, and NG'Os. The list of all participants and institutions they represent is in **Appendix 1**.

## **2. OBJECTIVES OF THE WORKSHOP**

The main objective of stakeholder's consultation workshop was to ensure that key stakeholders linked with project implementation are aware of the planned developments. It was also a fulfilment of the World Bank Safeguard Policy for Environmental Assessment (OP/BP 4.01). Specifically, the workshop aimed:

- To provide information on the progress of the implementation of SMMRP I; and planned activities for SMMRP II.
- To give a brief overview of the Environmental and Social Management Framework (ESMF) for SMMRP II
- To receive comments and concerns from stakeholders, and ensure that the stakeholders' views are addressed in the ESMF.

## **3. WORKSHOP PROCEEDINGS**

### **3.1 Word from the Permanent Secretary (PS) - MEM**

The PS welcomed all participants in the validation workshop on the developed Environmental and Social Management Framework for SMMRP phase II.

He provided a brief history of the project whereas he mentioned the four project components. He explained the reforms under the existing project which have resulted in significant improvements in mineral policy, institutional capacity and geological knowledge.

Besides the results of the project which have led to an increase in minerals production and government revenues from Mining, the PS alliterated that the benefits of the resource-induced growth have not been widely shared and has not been adequate to reduce rural poverty.

The PS described that as an alternative solution, the GoT has requested the World Bank for Additional Financing, with the aim to prioritize the sustainable development of Artisanal and Small-Scale Mining (ASM), as a way to spread the benefits of resource-induced growth to the population and eventually reduce rural poverty.

Finally the PS mentioned the importance of engaging key stakeholders to obtain their recommendations for further consideration as it is required in adhered to the World Bank procedure during the implementation of the additional funding. The speech is in **appendix 2**.

### **3.2 Overview presentation on implementation of SMMRP I**

An overview presentation on progress of implementation of SMMRP I and planned activities for SMMRP II was given by the Project Manager, the presentation covered the project concept and background, its components and objectives, and project activities and its implementation status. The project Manager further explained on the requested additional funding and the planned activities. The presentation is in **appendix 3**.

### **3.3 Overview presentation on ESMF**

The overview presentation on the ESMF was given by the Environmental Manager from TMAA and the Environmental Officer from EMU-MEM. This presentation mostly covered the following contents:

1. The objectives and rationale of the ESMF

2. WB Policies and other international agreements
3. SMMRP activities for phase II, which are divided in component A to D
4. Recommendations from SESA report
5. Potential Environmental and Social Impacts based on SMMRP II activities and a summary of propose approach to mitigate potential environmental and social impacts.
6. Coordination with other Ministries, Departments and Government Agencies i.e VPO, NEMC, NGO, Mining organisation, Communities etc. Also institutional roles and responsibilities were presented.
7. Environmental Monitoring, here the various institutional levels were each assigned responsibility for monitoring and evaluation of the mitigation measures, stating from the National level, Regional level, District level and the Community
8. And finally the time frame and budget, in which an initial budget of USD 30 million IDA and 5 Mil. Govt based on activities planned was presented.

#### 4. CONCLUSION AND CLOSURE REMARKS

The workshop was closed by the Commissioner for Minerals. In his closure remarks he concluded that the consultation workshop has been fruitful because participants engaged fully during the sessions and gave out their concerns. Participants were ascertained that the final report will encompass all of their comments and that the Ministry will continue to consult them when need arise. Further the ministry will ensure continuity in interactions in building transparent spirit as part of good governance.

S/ N	ISSUE/ QUESTION RAISED	RESPONSE
1	EXECUTIVE SUMMARY: Revise the English structure of the executive summary	Rectified
2	ABBREVIATIONS: Has to be revised to cover all the words used in the report and amend some of the words therein.	Rectified
3	FIGURE 3.1: Areas for SMMRPII activities have to be properly presented in the map. National, Region and District boundaries to be clearly indicated. The maps be moved to proposed area section 1.3 or be appended to the report	Rectified in collaboration with GST
4	FIGURE 3.2 Showing areas for high resolution airborne geophysical survey should properly represent areas as in the content of the report. The maps should be moved to the appropriate section of the report or be moved to the annex	Rectified in collaboration with GST
5	FIGURE 3.3: Showing areas for geological mapping and geochemical survey should properly represent areas as in the content of the report. The maps should be moved to the appropriate section of the report or	Rectified

	be moved to the annex	
6	<b>Management and Implementation Structure:</b> Figure 4.1	
	General amendment of the structure i.e. relations between the bodies in the structure and appropriate titles of the members in the Technical Committee	Rectified
	Exclude CEO- GST from Steering Committee part and include in Technical committee part member	Rectified
7	Section 30 of the Environmental Management Act, 2004 indicates that there shall be an Environmental Section in each sector ministry while ESMF report referees environmental management unit under MEM.	This is a result of MEM management structure, but principle functions of the unit are those defined in section 31 of EMA,2004
8	Information provided on Tanzania Gemological Centre (TGC) has to be reviewed to reflect current situation. (Name of the centre and major issues identified).	Rectified
9	Figure 4.1 do not have explanation and do not reflect the contents in section 1.3.4	Rectified
10	Data provided in Table 3 are obsolete (2001), The table only list few areas with minerals.	Information presented is just indication of the situation it does not present the actual situation
11	INDIGENOUS PEOPLE: The term indigenous people is not officially used in Tanzania hence it should not be used in the ESMF report	The term Indigenous was used in the report to refer the World Bank OP/BP 4.20
12	Information on impacts identification be modified to address real situation for example use simple terms for carbon foot print and replace Desertification with loss of flora and fauna	Addressed
13	Enhancement measures are not provided along positive impacts	It is an annex which has been prepared by someone else hence it cannot be changed.
14	SMMRP -II should facilitate ASM to conduct EIA in their projects. The EIA reports will be the basis on which environmental monitoring will be done	The Mining Act, 2010 through its Regulations on Environmental Management for Small Scale Mining of 2010 requires small scale miners to conduct studies and prepare environmental management protection plan (EPP). MEM has prepared EPP template.

1 5	Definition of SESA to be provided under definitions section. Environment Management Act, 2004 requires SEA to be undertaken, while the ESMF report mentions SESA.	SESA definition has been provided. The World Bank identifies SESA as one of an instrument that can be used to satisfy the Banks requirement (contained in operational policy 4.01) for environment assessment. It is used interchangeably with SEA. However, the two words carry the same meaning.
1 6	<b>Mining Cadastre Information Management System:</b> information on MCIMS should be updated to reflect the current situation.	ACML and Head of ICT should be consulted to provide information.
1 7	<b>Development of Seven Model Mines:</b> since the proposed time frame for AF will be 3 years, it will be unrealistic to develop all seven model mines for such period of time.	The model mines will be privately owned and operated. The Project will only provide support to develop such mines
1 8	<b>List of References:</b> format of presentation of references should be consistent.	Rectified
1 9	<b>Extension Services:</b> District councils should be involved in trainings on mining development and environmental protection. Minerals smuggling issues should be addressed specifically in areas along borders.	Addressed under subcomponent A.2
2 0	The functions of NEMC as well as Sector Environmental Sections should be presented as mentioned in the EMA, 2004	Re -addressed
2 1	The wordings under Institutional arrangement for environmental monitoring section should be revised	Re - addressed
2 2	Zonal and Resident Mine Officers should be Ex-official in councilors' meeting to enhance transparency in the development of mineral sector.	Policy Issues which was picked by the Commissioner for Minerals
2 3	Mining activities have direct impacts to infrastructure. What are the obligations of mining project owners when their activities affect infrastructure such as roads, bridges, etc.	Addressed in Impacts Section (Chapter 5)
2 4	There have been informal agreements between mineral right and surface right holders. How can such agreements are formalized to enable surface right holders to have shares in minerals production.	According to the Response provided by the Commissioner for Minerals, mining should exclusively be done by mineral right holders.
2 5	How is SMMRP -II going to ensure that extension services provided to ASM do give the positive results expected?	Addressed in Monitoring Section (Chapter 8)
2 6	How is SMMRP -II going to ensure communities surrounding the mine sites(who don't directly	Cumulative benefits from improved mining industry

	participate in mining activities) benefit from the extension services provided	resulting from support to be provided to ASM
2 7	In collaboration with councilors, specific by-laws should be formulated that will require ASM to conduct environmental rehabilitation at their mine sites	This will be one of the areas for capacity building for extension services to be provided to ASM
2 8	What strategies are in place to ensure conflicts between ASM and Large scale mines do not happen	Addressed in Impacts Section (Chapter 5)

## APPENDIX C

### Valuation Guidelines for Asset Categories

#### Appendix C: Valuation Guidelines for Asset Categories

The following provide *generic* valuations of different assets that would probably be relevant to the Project. These valuations should only act as a broad guide and will need considerable revisions prior to adoption.

##### 1. Homestead Structures and other Fixed Property

In the valuation of homestead structures and other fixed property, the following steps may be followed:

No household will be moved by the Project implementing agent prior to replacement or suitable housing being made available. The Project implementing agent will provide replacement housing for those people to be resettled. Replacement housing will be of an equivalent or better standard than that currently occupied by those to be resettled. Compensation will be made for structures that are within the Project Area. With regard to housing, the following stipulations could apply:

The Project implementing agent will:

- Undertake a detailed asset inventory of all persons, possessions, and assets found at individual households as discussed earlier;
- Determine values or compensation options for dwelling structures and other fixed property. Options may include rebuild and/or cash payment and the final choice should rest with the household. This package should be signed by the affected individual and a community representative

The valuation of physical structures should be based on the following general criteria:

- Survey of physical structures (size, build materials .) and all its related structures and support services;



- Determine average replacement costs of different types of structures based on information on the cost, quantity, and type of materials used for construction (e.g. bricks, rafters, bundles of straw, doors );
- Costs for transportation and delivery of these items to acquired/ replacement land or building site;
- Estimates of construction of new buildings including labour required. All existing housing will be surveyed to determine “floor area” and number of rooms. Floor area is defined as the built area of floor under roof, measured in metres squared, within structures used as primary dwellings in which people reside. Floor area does not include eaves, extended foundations, toilets, external showers, external washing areas, temporary structures, storage structures, animal pens and spiritual houses. The replacement housing provided will have at least an equivalent floor area and, as far as the Project implementing agent deems practical, the same number of rooms as that currently occupied by those to be resettled.

Households that have one or more concrete brick houses will have their houses replaced with houses built using new materials.

Households that have no concrete brick houses will be provided one concrete brick house, which will have a floor area equivalent to that of the existing main structure. The household’s other houses will be replaced to the same standard as currently exists. (The selection of this option should take account of relevant costs and any resulting degradation to the environment where materials are sourced);

Where the total floor area of a household is less than 12 m<sup>2</sup>, the Project implementing agent will construct a single concrete brick house of 12 m<sup>2</sup>. This 12 m<sup>2</sup> concrete brick house is referred to as the “minimum house.”;

- All labour and materials will be paid for by the Project implementing agent and will not be deducted from other compensation entitlements;

Where there is dispute within the household such dispute will be referred to a grievances and disputes committee.

In terms of compensation for physical structures lost due to resettlement two major options are provided:

***Option 1: Rebuild lost structures***

Under this option, compensation will be paid by replacing lost structures (irrespective of the title or lack of title that pertains to the affected household) with structures of similar or better quality. Two

sub options are envisaged here. The first would include re-building all primary dwellings and any additional outbuildings, latrines, fences and other impacted structures. Replacement structures will be rebuilt on the acquired replacement land. Cash compensation may be provided for smaller auxiliary structures but this would only be for minor structures.

Another option is to pay those to be resettled a cash compensation that they can use to finance building their own homesteads. Where households chose the cash option they should be counselled as to the consequences and sign a waiver indicating that all adult members of the household are in agreement that the cash option is preferred. This is not the preferred option and homesteads will be counselled against pursuing this option. It is generally regarded as problematic as resettlement experience shows that people tend to use cash payouts to satisfy very immediate needs instead of adequately replacing homesteads. A compromise solution, whereby those to be resettled take charge of building homesteads for themselves and are paid compensation in instalments against defined milestones, does present a viable alternative. A mechanism by which this might be undertaken is outlined below:

- **Offer Document:** Each household to be resettled would be presented with a written offer based on calculations derived from the asset inventory and valuation undertaken and the compensation package determined. The offer would stipulate how much money the household would be entitled to receive for the replacement of its homestead, based on the conditions of entitlement;
- **Land Identification:** It would be desirable that the household identifies land to purchase for residential purposes (this does not include replacement crop or forest land). It would be the household's responsibility to identify the land, enter into negotiation for sale of the land and acquire approval for the purchase. The household would present to the Project implementing agent for approval a written offer to purchase and an acceptance of such offer by the selling party;
- **Agreement:** When households approach the Project implementing agent, they would be asked to enter into an agreement with the Project implementing agent. Households would be told, in the form of an offer document, the amount that they are entitled to receive and the stages in which this money would become available. The agreement would stipulate that the household is acquiring land for the purposes of resettlement and that on completion of the sales agreements

the household would relocate from its existing property to the new property within a period of 90 days<sup>12</sup>;

- **Retention of Monies for Provision of Accommodation:** The agreement would further define how the household would make arrangements for housing and the time frame for acquiring such accommodation. A clause of the agreement would specify that the Project implementing agent would make several payments pertaining to land and improvements<sup>13</sup>, as defined in the EF;
- **Rescue of Infrastructure:** The household would have eight weeks after the initial payment is made to remove any movable assets from the land that they have ceded<sup>14</sup>. The Project implementing agent would provide transport for such infrastructure to any point within a radius of 15 km.

## 2. Land

Land is a critical asset in Tanzania and thus compensation for the loss of land is generally complex. First and foremost, the land ownership and security of tenure of people living on the land must be clarified. This is important as the Project site will have multiple landowners and tenants/squatters with varying legal standing. Privately owned land belongs to one individual with an extended family. Preliminary sell/purchase documents have to be signed by the land owners in question with the Project implementing agent. These documents also indicate that the land owner will provide the land without any illegal tenants still occupying it. In the event that occupiers who are not part of the extended family of the land owner are still resident, the Project implementing agent will have to compensate for any structures that have been constructed or bought by the illegal tenants.

The valuation guidelines for land are thus as follows:

- Acquire names and contact details of all persons with title deeds and/or usufruct use of land that may be affected by the resettlement;
- Classify land in question as either private or local government land and determine transfer, legal restrictions (i.e. legal limits in terms of sales );

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<sup>12</sup> This time frame may be amended in certain special circumstances. In such cases, the household would approach the SMMRP project implementing agent for an extension. An approach for extension would not be made later than eight weeks after the signature of the agreement. The SMMRP project implementing agent would deal with each case on its merits.

<sup>13</sup> For these purposes, the definition of "improvements" excludes crops and trees on the land and includes only immovable infrastructure.

<sup>14</sup> This excludes bricks and mortar as well as trees.

- Acquire name and contact details of tenants on private land and squatters on local government land. Additional types of ownership or occupation should be noted at this stage.

### **Land Allocation**

Compensation will be provided by the Project implementing agent for all land acquired for the Project. The forms of compensation may be either of the following, which are further discussed below:

- **Cash Payments:** Under this option, compensation will be calculated and paid in Tanzanian currency. Rates will be based on the market value of land when known, as defined by the government valuer, or estimated when not known;
- **In-kind Compensation:** This option will typically take the form of replacement land and labour.

### **Cash Payments**

Because land market transactions are not often recorded in Tanzania, market values may not be observable and may have to be imputed through estimation of loss of future income derived from land. Another method of calculating the value of land is by using information on what is known of the market. In addition to compensation for the market value of land, GN 78 of the Land Act of 1999 allows for compensation in the form of an accommodation allowance, loss of profit allowance, disturbance allowance and/or transport allowance, where land is acquired by cash payment. The accommodation allowance is the equivalent of 36 months of market-related rent for the land assessed. The loss of profit allowance is the equivalent of the net audited profit of 36 months of use. A disturbance allowance is calculated by multiplying the value of the land by the average percentage rate of interest paid by commercial banks on fixed deposits for 12 months. The transport allowance is calculated as the cost of transporting 12 tons of personal belongings by road or rail (whichever is cheaper) for a distance of 20 km from the point of displacement.

### **In-Kind Compensation**

In-kind compensation consists of the provision of an alternative parcel of land equal in size and quality to that which has been ceded. Each recipient, in consultation with the SMMR Project implementing agent, will decide upon the time and place for in-kind compensation payments. Experience has indicated that in-kind compensation is best accomplished via the transfer of land between willing buyers and willing sellers.

In the event that the amount of land available for purchase proves insufficient, the SMMR Project implementing agent will, in conjunction with the Consultative Forum, appoint a subcommittee to identify potential host resettlement areas and provide recommendations as to how replacement land should be allocated. This subcommittee would be comprised of representatives of each affected village, and the agriculture and land representatives of the district government.

### **3. Compensation for Forest Resources, Trees, Crops, Beehives and Mashamba Preparation**

#### **Compensation for Forest Resources**

According to PADEP<sup>15</sup> (2003), trees have recognized local market values, depending upon the species and age. As such, compensation for the removal of trees that are “owned” by individuals or villages and that are located on lands as defined in this policy will be paid to the individual or to the village that owns the trees.

PADEP notes further that wild productive trees are owned by villages when they occur in the true bush as opposed to on fallow land that has been rehabilitated and given over to “*in situ* conservation.” Those lands that were previously fallow tend to be owned by individuals whose rights are expressed in customary law. The indigenous species found within areas of land that have been given over to *in situ* conservation provide a range of resources to their owners (individuals, or village governments), which include:

- Firewood;
- Building poles;
- Traditional medicines;
- Natural fruits;
- Wood for furniture;
- Wood for handicrafts;
- Wood for grain storage units; and
- A home for beehives.

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<sup>15</sup> PADEP refers to the Participatory Agricultural Development and Empowerment Project Resettlement Policy Framework drawn up for the Tanzanian Ministry of Agriculture. In the absence of a comprehensive national resettlement policy, this document reflects the recent thinking of a Government of Tanzania department as to resettlement policy.

In accordance with the compensation rates set out by the Ministry of Natural Resources, the value of the private/village owned forest can be calculated, and individuals or village governments compensated accordingly. Rates will be provided by the DFO (through the office of the District Commissioner) to the Valuation Division in the Ministry of Lands and Human Settlements Development, which will calculate amounts to be paid. It is proposed that compensation for communal resources (i.e. communal forests or village governments) be paid into a trust fund, from which funds will be paid to facilitate forest resource restoration measures.

### **Compensation for Exotic and Fruit Trees**

Large fruit trees, such as mangoes or avocado, are important as a source of:

- Subsistence food for families;
- Market income in some areas; and
- Shade.

Compensation for critical subsistence trees will be predicated on a combined replacement market/subsistence value given their significance to the local subsistence economy. If households are resettled, they will be compensated for the commercial/food value of the trees they leave behind. The compensation rate will be based on information obtained from the resettlement baseline study. From this study, and following the PADEP precedent, a compensation schedule for trees will be developed, incorporating the following goals:

- Replace subsistence mango, avocado and other tree-fruit production;
- Provide subsistence farmers with trees to extend the number of months of the year during which fruit is produced and can be harvested as a supplemental source of food for their families during the “hungry season.”;
- Provide farmers with the opportunity to derive additional production income from trees bearing more valuable fruits during off-season periods;
- Provide cash payments to farmers to replace income derived from the sale (excess production) or food production (base production) until replacement trees produce the equivalent (or more) in projected production or cash income.

It should be noted that the Valuation Division in the Ministry of Lands and Human Settlements Development has developed crop compensation rates, which have recently been reviewed by the Government of Tanzania. The amount of compensation assessed must be approved by the chief

government valuer. The compensation process includes providing a combination of grafted (improved) and local trees to farmers, as well as cash payments to offset lost yearly income. It has been agreed that the Project implementing agent will do the following:

- Record the number and type of exotic and fruit trees owned by each household in the asset survey;
- Provide compensation for trees in two parts: One part should be replacement saplings and the other part cash.
- Replacement saplings:
  - The Project implementing agent will:
    - Provide saplings of the same species as the trees that will be lost. Where this is not practical, then a reasonable alternative will be provided;
    - Provide an agreed-upon number of saplings. After approximately 4 to 12 months following sapling planting, the Project implementing agent will assess planting success and, if necessary, provide households with additional saplings to allow for mortalities - up to 36% of originally agreed-upon number of saplings after first assessment and up to 10% of originally agreed-upon number of saplings after second assessment; and
    - transport the saplings to household resettlement sites.

Resettled households will:

- take delivery of the trees at the resettlement site and sign for them; and
- plant their own trees in a permissible place of their own choosing.
- Cash:
  - The Project implementing agent will:
    - Pay compensation for the loss of production for the period required for replacement trees to start producing;
    - Calculate cash compensation for trees on the basis that they reach production<sup>16</sup> after a defined number of years. This number will be set in discussion with the Valuation Division of the Ministry of Lands and Human Settlements Development;
    - Pay compensation for other fruit trees, such as banana and paw-paw, on the same basis as for mango or avocado trees, taking into account the shorter non-productive periods;
    - Calculate cash compensation by multiplying the number of trees of each type that a household owns by the total payment per tree type;

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<sup>16</sup> Compensation will be paid only for productive trees. Compensation will not be paid for trees that are not mature enough to produce, are too old to be productive, or are diseased.

- Calculate compensation for other species in accordance with Department of Forestry guidelines; and
- Take possession of the trees after the compensation payment is made.

### **Compensation for Crops Lost in the Field**

The Project implementing agent will provide compensation for the loss of annual or field crops, using the rates provided by the Ministry of Agriculture as a basis. It is noted that the value given by the government is often out of date; therefore, the value of lost crops should also be adjusted based on local commercial prices at the time of compensation. The SMMR Project implementing agent would thus pay either the government rate or the local commercial price, whichever is greater. Procedures for calculation and payment are defined in the entitlement framework.

Further, the following stipulations have been agreed to:

- The Project implementing agent will compensate owners of *mashamba* (fields), as well as renters/borrowers of *mashamba* in proportion to the stipulations of the rent or borrow agreements;
- The Project implementing agent will provide compensation for annual crops in the form of replacement grain and not cash;
- Where it is not possible to provide replacement crops of the same type as that lost, households will be able to choose alternate types of a value equal to the lost crop. The value of the lost crop will be calculated based on the local average price at the time of compensation.

### **Compensation for Vegetable Gardens.**

Vegetable gardens are planted primarily for use by the household. Until a replacement garden starts to bear, families who lose gardens will need to purchase vegetables in the market. The replacement costs will therefore be calculated based on the local market prices for these products at the time of compensation.

### **Beehives**

Beehives can be an important part of the subsistence livelihood of the people to be affected by the Project. Beehives produce honey and beeswax, both of which are commodities produced for market purposes (certain districts of Tanzania export beeswax). Hive owners will be paid for their annual



losses until hives can be re-established elsewhere, or be paid the equivalent of the capitalized income.

### **Compensation for Preparation of Replacement Mashamba**

With regard to the preparation of *mashamba*, it has been agreed that:

- The Project implementing agent will clear and undertake primary land preparation of land provided for replacement *mashamba*;
- The Project implementing agent will provide the initial seed; and
- Head of the households' will take responsibility for seeding the land, tending the crops and maintaining the fields in the future.

If people choose to relocate themselves to a location not within the vicinity of the Project Area (more than 20 km away from the Project Area), the Project implementing agent will not prepare *mashamba* but will fund peoples' preparation of their own *mashamba*. The value paid will be set per acre and be based on an agreed-upon amount for labour. The labour amount will reflect local daily unskilled labour rates.

### **Payment of Compensation**

With regard to the payment of compensation, it has been agreed that:

- A single food payment will be made for the loss of crops in the field;
- The payment of compensation will be made at the time that the household is resettled; and
- The method of compensation payment will be through a bank. The Project implementing agent will not give individuals cash. The Project implementing agent will assist the heads of the households to open bank accounts, and will place the funds in these accounts. The SMMR Project implementing agent will also train people on how to access their bank accounts.

### **4. Graves and Sacred Sites**

Sacred sites include such sites or places/features that are important for customary practice, tradition and culture, and thus considered sacred. Sacred sites include but are not restricted to altars, initiation centres, ritual sites, tombs, graves and cemeteries. Many shrines are also associated with grave sites. However, some are regarded as healing shrines, or designated as shrines having "high" or "low" power. Negotiating the relocation of such shrines will be highly sensitive. Experience shows

that where resettlement becomes contested by those affected, resistance is very often a response to losing areas of ritual, spiritual, mystic or aesthetic importance. The importance of sensitively negotiating the compensation for these kinds of losses cannot be overestimated.

The transfer of graves is a highly emotive issue, as in many instances graves also serve as shrines for the worship of ancestors. Disturbance and angering of ancestors is seen to result in bad luck and misfortune — for example, drought is frequently blamed upon an angered ancestor. The issue of disturbance of graves therefore must be approached with the utmost sensitivity and all due regard to custom. The Graveyard Removal Act of 1968 refers directly to grave removal and serves as the principal guide as to how graves will be addressed in the RAP.

Generally the presence of graves and sacred sites is more pronounced in rural areas; however this cannot be discounted in urban areas. The socio-economic census and asset register will need to note any graves or sacred sites. The outcomes of these surveys will confirm the need for further steps in terms of valuations. Should graves be found, as a general principle, the exhumation and re-burial of individual graves within the Project Area will only commence following the resettlement of associated families.

When this occurs, the Project implementing agent will:

- Continue efforts to identify all existing graves within the Project Area;
- Make exhumation and reburial arrangements with village and district governments;
- In consultation with the village government councils, identify land for the purposes of preparing a formal cemetery or cemeteries and compensate the village government councils for the land — all reburial will take place within designated cemeteries;
- Negotiate with each affected household the timing and arrangements for the exhumation and reburial of the deceased and record the outcomes of these negotiations; and
- Cover all costs incurred for the exhumation, transport and reburial of the deceased, including the provision of:
  - A cloth-lined coffin from an approved supplier;
  - A replacement tombstone where such exists on the original grave site — where no tombstone exists, the Project implementing agent will pay for an inscribed wooden tablet of a shape in keeping with the religious beliefs of the deceased; and
  - The current flat rate fee per grave as stipulated by the government.

The household will organize a ceremonial process for the grave exhumation and reburial in accordance with its religious beliefs and/or customs.

In addition, the Project implementing agent will:

- Place in each cemetery in which reburials occur a small shrine or memorial structure dedicated to the ancestors of the people who were resident and had family graves in the Project Area;
- Design the shrine or memorial structure to accommodate the religious beliefs and/or customs of the affected households; and facilitate a service to commemorate the ancestors of the people who were resident and had family graves in the Project Area.

The SMMR Project implementing agent will inform village and district authorities, and all other relevant authorities, when the resettlement and grave relocation process has been completed.

During Project construction, the Project implementing agent may incidentally disinter or disturb human remains. As a general principle, the Project implementing agent will manage unidentified and incidentally disinterred human remains in accordance with the wishes of the village and/or household. In the event that human remains are incidentally disinterred or disturbed, the SMMR Project implementing agent will:

- Identify and record the exact site by GPS;
- Immediately remove the remains to an agreed storage place;
- Notify the village government council; and
- Rebury the remains:
  - In a designated cemetery of the deceased's family's choosing following all procedures indicated above; or
  - At the shrine or memorial structure in the case of unidentified human remains.

## **5. Community Infrastructure**

Community infrastructure and resources will need to be replaced as part of the resettlement process. The valuation of community structures and resources will require additional consultation with community leaders, committees or individuals that have responsibility over any community structures or natural resources. In this case, community structures or natural resources may include:

- Schools ;

- Clinics and dispensaries;
- Community halls;
- Markets ;
- Others

The resettlement process would need to commit to the replacement of any community infrastructure in such a manner that maintains existing community services. Such replacement should be equal or ideally better than what is being replaced. Furthermore, due consideration will be needed in terms of the appropriate location of the replacement structures and its catchment (i.e. pupils for schools). Valuation guidelines for community infrastructure include the following:

- The socio-economic study will be required to determine and survey all community infrastructures, and describe its function, users, intensity of use, locational importance and links to local livelihoods;
- Valuation should be based on replacement costs of materials, building costs and the acquisition of additional land;
- Ideally the replacement of community infrastructure should be undertaken in consultation with the local community, any host communities and the relevant authorities. The latter is perhaps the most critical as the authority (health departments) should maintain overall responsibility of community infrastructure with support from the Project implementing agent.

## **6. Businesses and Enterprises**

In the case where the Project would affect commercial structures, the Project implementing agent would need to compensate the affected business or enterprise for the cost of re-establishing the commercial business at a new location. The valuation would need to consider the following guidelines:

- The socio-economic study will be required to determine and survey all commercial businesses and describe their function, intensity of use, locational importance and market catchment;
- Valuation should be based on the cost of re-establishing the commercial activity at a new location. This may include costs for:

- Lost net income, and where business profits may be affected. Compensation will be paid according to audited results of the enterprises monthly income. Similarly lost wages will be determined through enterprise audit;
- Acquisition of new land;
- Material and construction costs of replacement structures;
- Costs of transfer.

The replacement of commercial businesses should be undertaken in consultation with the business owner.

## **APPENDIX D**

### **Possible Income Restoration Programmes**

## Appendix D: Possible Income Restoration Programmes

### Establishment of a Mechanism to Enhance Local Employment

Expectations of the local population with respect to job opportunities provided by mining development are usually very high and given these expectations it is proposed that a local employment committee be established that would serve to maximize employment opportunities for the local populace and, thereby, reduce possible insider-outsider conflicts over employment.

It is proposed that the local employment committee consist of representatives from:

- The Consultative Forum, but possibly expanded to include other local and sub-regional stakeholders;
- The Project implementing agent (through its Human Resources and Community Development Department); and
- Major contractors.

The local employment committee would meet to ensure:

- That where suitable candidates are locally available they are afforded priority;
- Reservation of appropriate sub-contracting jobs, wherever possible, for local entrepreneurs and/or contractors;
- Encouraging contractors to optimize the numbers of jobs that they can make available; and
- Structuring a local employment policy that spreads jobs as widely within the area as possible.

The Project implementing agent, as the employer, would retain a right of veto in terms of hiring people that they deem inappropriate. The Project implementing agent would also retain the right, within the ambit of appropriate labour legislation, to fire or retrench employees as it becomes necessary. The establishment of the local employment committee would however go some way towards ensuring good faith in the matter of employment opportunities.

## **Primary Production Development Programs**

The Project implementing agent could create opportunities for a number of development programs that could benefit people affected by resettlement beyond simply restoring livelihoods and, thereby, minimize the risk of reduction in quality of life. Such opportunities could include:

- Fruit tree improvement programs, which could be geared towards diversifying the range of fruit trees for subsistence as well as for market production. These programs, together with the opportunities listed below, should all be undertaken with an integrated training and capacity building programme;
- Livestock improvement programs including intensification, such as feedlots, as well as improved resource use through communal resource management programs and rangeland rehabilitation;
- Improved access to financing. Improved access to financing could enable farmers to utilize improved cultivars and superior production methods;
- Aquaculture and fisheries programs to utilize water resources during the rainy season and to increase protein production;
- Poultry development programs;
- Honey and milk production programs – the opportunity also exists to expand this sector further into agri-processing.

## **Secondary Processing and Entrepreneurial Development**

Opportunities may exist to process and market primary agricultural production from the lands in the vicinity of the Project Areas and, thereby increase returns to producers. Such opportunities could be enhanced by means including:

- Assistance with the establishment of improved marketing structures for the sale of livestock as well as fruit and grain crops. This could include storage facilities as well as access to better transport;
- Improved availability of farming supplies;
- Secondary processing of local products, especially rice, maize and cassava, milk; and
- Facilitation of entrepreneurial development – The establishment of an entity providing advice and facilitating access to finance would be of great benefit and could include involvement in all the above referenced secondary processing opportunities.



## **APPENDIX E**

**Typical RAP Outline as per World Bank Guidelines**

## **Appendix E: Typical RAP Outline as per World Bank Guidelines**

### **1. Introduction – Project Background**

- Brief introduction about the Project;
- List of Project components;
- Description of Project components causing land acquisition and resettlement. Provide overall estimates of land acquisition and resettlement.

### **2. Minimising Resettlement**

- Describe efforts made for minimising resettlement;
- Describe the result of these efforts.

### **3. Census and Socio-Economic Surveys**

- Identify all categories of impacts (loss of property and assets, loss of livelihood, impacts on groups and communities);
- Give formats and tables for census surveys;
- Provide outlines for socio-economic survey;
- Summarise process for consultations on the results of the census surveys;
- Describe need and mechanism to conduct updates, if necessary.

### **4. Resettlement Policy and Legal Framework**

- Identify areas of conflict between local laws and World Bank policies, and project-specific mechanisms to address conflicts;
- Provide a definition of Project affected persons;
- Describe entitlement categories for each category of impact;
- Describe method of evaluation used for affected structures, land, trees and other assets;
- Provide entitlement matrix.

## **5. Resettlement Sites**

- Does the Project need community relocation? Have these been approved by the affected people?;
- Give layouts and designs of residential sites (where appropriate);
- Have the affected people agreed to the strategy for housing replacement? Have the selected sites been explicitly approved by the Affected people describe the specific process of showing the sites to the Affected people and obtaining their opinion on them;
- Describe the technical and feasibility studies conducted to determine the suitability of the proposed sites;
- Give calculations relating to site requirements and availability;
- Describe mechanisms for (i) procuring, (ii) developing and (iii) allotting resettlement sites.

## **6. Institutional Arrangements**

- Identify and discuss the institutions responsible for delivery of each item/activity in the entitlement policy;
- Describe the Project resettlement unit – functions and organisational structure of the unit and coordination relationship;
- State how coordination issues will be addressed in cases where resettlement is spread over a number of jurisdictions;
- Identify who will co-ordinate all agencies-with the necessary mandate;
- State when the Project resettlement unit will be staffed;
- Describe plans for training and development of staff in the resettlement to unit/local agencies;
- Discuss initiatives taken to improve the long term capacity or resettlement institutions.

## **7. Income Restoration**

- Briefly spell out the main restoration strategies for each category of impacts, and describe the institutional, financial and technical aspects;
- Describe the process of consultation with Project affected persons to finalise strategies for income restoration;

- How do these strategies vary with the area/locality of impact?;
- Are the compensation entitlements sufficient to restore income streams for each category of impact? What additional economic rehabilitation measures are necessary?;
- Does income restoration require change in livelihoods, development of alternative resources, or involve some other activities, which require a substantial amount of time for preparation and implementation?;
- How does the action plan propose to address impoverishment risks?;
- Are choices and options built into the entitlements? If so, what is the mechanism for risk and benefit analysis of each option? What is the process of ensuring that affected people have knowledge about alternatives and can make informed decisions? Is there a mechanism to encourage vulnerable groups among affected people to choose lower risk options such as support in kind rather than cash?;
- What are the main institutional and other risks for the smooth implementation of the resettlement programmes?

## **8. Implementation Schedule**

- List and briefly describe the chronological steps in implementation of the resettlement, including identification of agencies responsible for each step of the programme;
- Prepare a month-wise implementation schedule of activities to be undertaken as part of the resettlement implementation (Gantt chart);
- Describe the linkages between resettlement implementation and initiation of civil works for each of the Project components.

## **9. Costs and Budget**

- Clear statement of financial responsibility and authority;
- Ensure that the cost of resettlement is included in the overall Project costs;
- Identify components, if any, to be funded by donors such as the World Bank, JICA, NORAD, DANNIDA;
- Resettlement costs should be a part of annual involvement plans;
- List the sources of funds and describe the flow of funds;
- Describe the specific mechanisms to adjust cost estimates by the inflation factor;

- Describe provisions to account for physical and price contingencies.

## **10. Participation and Consultation**

- Describe the process of consultation/participation in resettlement preparation and planning;
- Describe the various stakeholders;
- Describe the plan for disseminating information to Project affected persons (affected people), such as provisions for a booklet to inform affected people and other stakeholders;
- Describe examples of outcomes of participation and consultation, such as how local beneficiaries' views have influenced the design process, entitlements and support mechanisms, or other issues;
- Have workshops been conducted, or are they planned? Who are the participants, and what are the expected outcomes?

## **11. Grievance Redress**

- Describe the step-by-step process for registering and addressing grievances;
- Provide specific details regarding registering complaints, response time, communication modes;
- Describe the mechanism for appeal;
- Describe the provisions to approach civil courts in case other provisions fail.

## **12. Monitoring and Evaluation**

- Describe the internal monitoring process;
- Define key monitoring indicators. Provide a list of monitoring indicators, which would be used for internal monitoring;
- Describe institutional (including financial) arrangements;
- Describe frequency of reporting and content for internal monitoring;
- Describe process for integrating feedback from internal monitoring into implementation;

- Describe financial arrangements for external monitoring and evaluation, including process for awarding and maintenance of contracts for the duration of resettlement;
- Describe methodology for external monitoring;
- Define key indicators for external monitoring, focusing on outputs and impacts;
- Describe frequency of reporting and content for external monitoring;
- Describe process for integrating feedback from external monitoring into implementation.

## **APPENDIX F**

### **Background to the Demonstration Sites**

## Appendix F: Background to the Demonstration Sites

**Table 1: Project Areas**

<b>Mining Zone</b>	<b>Centres of Excellence</b>	<b>Demonstrating Site</b>	<b>Mineral</b>
Eastern Lake Victoria	Musoma	Buhemba	Gold
Lake Nyasa	Songea	Mbesa (Tunduru)	Copper
South Western	Mbeya	Chunya (Itumbi)	Gold
Lake Victoria	Geita	Rwamgasa	Gold
Lake Victoria	Mwanza	Keyrwa	Tin (cassiterite)
Central West	Kahama	Katente	Gold
Southern	Mtwara	Nashingweya	Salt/Industrial Minerals
Western	Mpanda	Kaparamsenga	Copper

### 1. Kapalamsenga Copper Area in Mpanda

#### A. Location Description

**Nearest Village:** Kapalamsenga, and other nearby are Songambebe and Itunya

**District:** Mpanda Rural

**Zone:** Western Zone

**Population:** about 8,939 people from one Ward known as Kapalamsenga composed of three villages (Kapalamsenga, Songambebe and Itunya)

#### B. Socio-Economic Factors

**Level of Poverty:** low income

**Type of Livelihood:** mainly farming

**Level of Services:** 2 primary schools; 1 secondary school located nearby Ward – Karema Ward; 2 dispensaries; water – several shallow boreholes.

#### C. Current Land Use

**Land owner:** Kapalamsenga village;

**Existing ML in the area:** 1 and 2 under process;

**Active mine sites in the area:** 6 active PMLs for copper

**Total Registered Titles:** 60 PMLs

**Pending Applications:** 300 PMLs applications recommended

#### D. Habitat Description

**Nearby lake/rivers:** Lake Tanganyika (*about 15km to the lake*)

**Nearby Cultivated Land:** small area under cultivation, while large area is not arable land (forest and hilly).



### **E. Environmental Sensitivity**

**Deforestation:** yes, mostly through farming

**Water Pollution:** Not observed

**Land Degradation:** yes, mostly through farming

## **2. Buhemba Gold Area in Musoma**

### **A. Location Description**

**Nearest Village:** Biatika, Kinyariri, Matongo, Mirwa, Tarani and Magunga

**District:** Butiama

**Zone:** Lake Victoria Eastern Zone

**Population:** about 23,349 residents

### **B. Socio-Economic Factors**

**Level of Poverty:** low income

**Type of Livelihood:** subsistence farming

**Level of Services:** primary school in each village; secondary school in each Ward (Mirwa, Buhemba) dispensaries and Health Center in each Ward; water – several shallow boreholes.

### **C. Current Land Use**

**Land owner:** STAMICO

**Existing ASM in the area:** 3,000 ASM.

### **D. Habitat Description**

No river and heavy forests, there are seasonal streams and shrubs;

Small animals like rabbits, reptiles and dikdiks are commom in the area.

### **E. Environmental Sensitivity:**

**Deforestation:** yes, mostly through farming and firewood usage

**Water Pollution:** yes, mainly through mercury contamination

**Land Degradation:** yes, mild and mostly is caused by ASM and farming

## **3. Katenta Area in Kahama**

### **A. Location Description**

**Nearest Village:** Ushirombo

**District:** Bukombe

**Zone:** Lake Victoria Western Zone

**Population:** 10,000 residents

## **B. Socio-Economic Factors**

**Level of Poverty:** medium level

**Type of Livelihood:** business, mining and agriculture

**Level of Services:** primary school in each village; secondary school in each Ward; dispensaries and Health Center in each Ward; water – several shallow boreholes,

## **C. Current Land Use**

**Land owner:** Local Government and individuals

**Existing ASM in the area:** 300 PMLs

## **D. Habitat Description**

No river and heavy forests, there are seasonal streams and shrubs; scattered small cultivated land.

## **E. Environmental Sensitivity**

**Deforestation:** yes, mostly through farming and firewood usage

**Water Pollution:** mainly through mercury contamination from ASM

**Land Degradation:** yes, mild and mostly is caused by ASM and farming

## **4. Tunduru area in Songea**

### **A. Location Description**

**Nearest Village:** Mbesa and others are Lukumbo and Mbatu

**District:** Tunduru

**Zone:** Lake Nyasa Zone

**Population:** about 8000 people

### **B. Socio-Economic Factors:**

**Level of Poverty:** low income

**Type of Livelihood:** farmers

**Level of Services:** 4 primary schools, 1 secondary school (o-level), missionary hospital.

### **C. Current Land Use:**

**Land owner:** Mbesa village;

**Active mine sites in the area:** 6 active PMLs for copper

**Total Registered Titles:** 1500 PMLs

### **D. Habitat Description:**

**Nearby rivers:** Mbesa river (about 400m from mimig area),

**Nearby Cultivated Land:** yes, many farmers combine farming and mining on their properties

**E. Environmental Sensitivity**

**Deforestation:** yes mostly through farming

**Water Pollution:** Not observed

**Land Degradation:** yes, mostly through farming

**5. Nyachingweya area in Mtwara**

**A. Location Description:**

**Nearest Village:** Mishindo

**District:** Kilwa

**Zone:** Southern Zone

**Population:** about 15,000 people

**B. Socio-Economic Factors:**

**Level of Poverty:** medium income

**Type of Livelihood:** fishing, business, tourism, salt mining

**Level of Services:** social services are available provide by local government

**C. Current Land Use:**

**Land owner:** villages, municipality

**Active mine sites in the area:** 55 active PMLs for copper

**D. Habitat Description:**

**Nearby lake/rivers:** Indian Ocean, *about 2km from the ocean*

**Nearby Cultivated Land:** none

**E. Environmental Sensitivity:**

**Deforestation:** none

**Water Pollution:** none;

**Land Degradation:** none

**6. Kyerwa area in Mwanza**

**A. Location Description**

**Nearest Village:** Nyaruzumula

**District:** Kyerwa

**Zone:** Lake Victoria Western Zone

**Population:** about 7,000 residents;

### **B. Socio-Economic Factors**

**Level of Poverty:** medium level;

**Type of Livelihood:** Mining, Fishing, and Agriculture;

**Level of Services:** Medium and supplied by the government

### **C. Current Land Use**

**Land owner:** STAMICO

**Existing ASM in the area:** 4,000 ASM

### **D. Habitat Description**

Game reserve Rumanyika and Ibanda are located 60km from the mining area; no river and heavy forests, there are seasonal streams and shrubs near to the mining; River Kagera is situated 10 km from the river; scattered small cultivated land.

### **E. Environmental Sensitivity**

**Deforestation:** yes but minimum, mostly by farming

**Water Pollution:** no, no chemical use in processing of cassiterite

**Land Degradation:** very minimum

## **7. Rwangasa area in Geita**

### **A. Location Description**

**Nearest Village:** Rwamgasa Village

**District:** Geita

**Zone:** Lake Victoria Western Zone

**Population:** about 7,000 residents;

### **B. Socio-Economic Factors**

**Level of Poverty:** medium level

**Type of Livelihood:** Mining, Fishing, and Agriculture;

**Level of Services:** Medium and supplied by the government

### **C. Current Land Use**

**Land owner:** Village government of Lwamgasa

**Active mine sites in the area:** 2 PMLs for gold

**Existing ASM in the area:** 4,000 ASM

### **D. Habitat Description**

There are seasonal streams and shrubs near to the mining; scattered small cultivated land; 60 kms from Lake Victoria.

### **E. Environmental Sensitivity**

**Deforestation:** yes minimum, mostly by farming

**Water Pollution:** yes through mercury pollution

**Land Degradation:** yes, minimum, mostly due to farming.

**Figure - Project areas**

**APPENDIX G:**

**Estimated Budget for RPF Implementation**

Implementation of the RPF will be funded through the Operating Costs of the SMMRP-II. No resettlement is expected and the RPF has been prepared as a precaution. Therefore at this stage where the actual locations of subprojects have and resettlement impacts have not yet determined it is not possible to know the specific details on any required RAPs or to provide an estimated budget for the total costs of resettlement that may be associated with the implementation of the SMMRP-II. If required, activities for individual RAPs for sub-projects will be funded like any other project activity eligible under the SMMRP-II. Funding will be processed and effected through the programme's financial processing arrangements from available contingency funds (\$2 million).

Funds for implementing inventory assessments and resettlement action plans will be provided by the implementing agency. In general, the cost burden of compensation will be borne by the respective implementing agency for RAPs undertaken in each of the SMMRP-II countries.

The RAP for a sub-project would include an itemised, indicative budget and the implementing agency will finance this budget through the administrative and financial management rules and manuals like any other activity eligible for payment under the SMMRP-II. This budget will be subject to the approval by the implementing agency.

The implementing agency will have to finance the resettlement compensation because they will be impacting on the people's livelihoods. Disbursements based on budgetary requirements, established by the RAPs in consultation with PAPs and local leaders, will be made through the relevant District Administration.

**APPENDIX G:**

**Mitigation Table**



**Appendix G: Summary Table of Project Activities and Proposed Approach to Mitigate Potential Resettlement Impacts**

<b>Project Component</b>	<b>Description</b>	<b>Resettlement Implications</b>	<b>Possible Mitigation Measures</b>
A.1	Extension services for Artisanal and Small-scale Mining	Capacity building for small-scale miners in seven of the ten mining Zonal Offices. Minor works are envisaged such as building of classrooms and extensions to existing government structures.	<ul style="list-style-type: none"> <li>• Ensure any extension of existing buildings is contiguous and confirm ownership of land to be that of government</li> <li>• Complete Environmental Management Plan for minor works</li> </ul>
A.2	Demonstrating Sites	Installation of demonstration facilities on existing STAMICO properties.	<ul style="list-style-type: none"> <li>• Environmental Management Plans must be developed and reviewed by the World Bank, prior to commencement of any new works.</li> <li>• Ensure sites do not require resettlement</li> <li>• Should resettlement be unavoidable, procedures to be followed for establishing a RAP and corresponding compensation</li> </ul>
A.3	Targets geological ground works	Surveying of specific outcrops and prospective areas in already demarcated ASM areas, as defined by government.	<ul style="list-style-type: none"> <li>• Ensure that geological surveying does not encroach on protected areas or areas with known indigenous peoples</li> <li>• Advertise at least 30 days prior any geological surveying or ground works to be done through local government offices</li> </ul>
A.4	Financial assistance for Small-scale mining and value addition activities	Expansion in grants scheme to ASM may lead to their growth and hence subsequent expansion of mining and mineral processing activities, which may eventually require additional land. Improvements of livelihood may attract migrants and hence similar implications as A.2 above.	<ul style="list-style-type: none"> <li>• All Grant Recipients must demonstrate security of tenure (existing PML)</li> </ul>
A.5	Linkages between	Mainstreaming of mining into strategic planning at district level may lead to	<ul style="list-style-type: none"> <li>• Proper zoning to avoid unnecessary</li> </ul>

	Mining and the Local Community	renovation of existing social services.	resettlement
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**Appendix H: Indicative Entitlement Matrix**

Asset	Type of Impact	Affected Person/unit	Eligibility Criteria	Financial or In-Kind Compensation	Allowances/Assistance
<b>Land(including fallow land used as part of agricultural cycle)</b>	acquisition of sub-surface rights (PML) for ASM	Land owner (individual, clan or community)  Tenant/User (will not receive compensation for land but for improvements to land they have made such as crops, houses, sheds etc. (see below for details))	Persons with formal right to land or without formal legal right to land but have recognizable claim to land recognized under the prevailing local land tenure  Persons with no formal or customary rights to land (squatters) will receive assistance to move to a place where they legally reside and work, as well as compensation for lost assets, but will not be compensated for the land they are using.	PML involve subsurface rights granted by provincial authorities. These often take place in remote unpopulated areas. If they affect surface rights, then a compensation is required by the mining Act. Compensation will include replacement with land of equal size and quality in locations adjudged as same in value to the acquired one. If land replacement is not possible or available then cash compensation at full replacement value.  Community land – ASM exclusive areas are delineated in mineral rush areas of areas of existing high concentration of ASM. They do not normally involve occupied land. However, if this situation arises, replacement land will be provided or compensation will be paid to the community with their full consultation and participation	<u>Land Transfer allowance</u> Assistance available under CLEP and MUKURABITA and SPILL..
	Temporary acquisition of land			Financial compensation for any crops or trees acquired or destroyed; compensation for any rent received from land; replacement land if lack of access will last for an agricultural cycle and prevent farmers from either planting or harvesting crops. Return of land to land user after use  Compensation for the loss of assets other than land, such as dwellings and other improvements to the land, at full replacement cost.	Assistance available under government initiative such as CLEP and MUKURABITA and SPILL..
<b>Cultural Heritage</b>					

Asset	Type of Impact	Affected Person/unit	Eligibility Criteria	Financial or In-Kind Compensation	Allowances/Assistance
	Permanent /Temporary loss of cultural heritage including sacred sites.	Community	Community Land not under dispute	Replacement in consultation with concerned parties including ministry of environment with respect to forest/trees  Cash compensation of temporary loss of income	Assistance available under government initiative such as CLEP and MUKURABITA and SPILL..
	Restriction /loss of grazing ground	Masai pastoralists and others	Established grazing pattern/history	Land with grazing history will be excluded from eligibility for ASM demarcated.	

