PS5 or PS1
impacts should
Clarify whether
cases.
CAO Comment: Review of Case Information for PS5 or PS1

Key cases:
- Bujagali
- Tolgoi
- Nedbank Tier II-01
- Myanmar
- Vizhinjam
- Tata Ultra
- Wilmar Group
- Awba

Guidance Note 5: Performance Standard 5

Examples of Stakeholder Voices in CAO Cases

Examples from the Draft Handbook

- "Failing to recognize this complexity (of land rights) when devising a land compensation system may result in compensating the wrong beneficiaries (or only some of the right ones) and entail serious misunderstandings and conflicts." (p. 43)
- "An important between project ESIA studies and land acquisition and resettlement planning is that the latter requires a relatively precise definition of the project footprint, this will determine the extent of physical and/or economic displacement, affected assets and compensation payable. The scoping team will need to meet with the project management team, planners, designers, and engineers to obtain a reasonable definitive project footprint, including all ancillary and associated facilities (pp. 17-18)."
- "Footprint: Land that is directly affected by the project and has to be acquired." (p. 271)
- "What is the total area (physical footprint) required for the project development, structures, and facilities, including all ancillary facilities such as access roads, airfields or borrow pits, land subject to severance, or restriction to access because of project activities, and buffer zones (for example environmental, noise, safety)? (…) Is there a broader social footprint or project impacts that goes beyond the actual physical project footprint: for example, the use of resources or facilities affected by the project by communities or individuals living outside the project footprint, such as herders and fisher people?" (p. 280)
- "Transient communities: Such communities may include seasonal workers who are present only temporarily in the affected area (for example, at the time of harvest), transhumant or nomadic herders, seasonal fisher people, hunters, seasonal workers, and so forth. Such groups may be affected by the loss of land or other natural resources such as water bodies, but usually they hold no rights and are often missed at the time of planning compensation and resettlement entitlements. In addition, there may be opposition from local sedentary communities or local authorities to conceding them any compensation entitlements. It is important to identify such communities at the scoping stage." (p. 42)
Provide additional guidance on legacy issues

- Ambuklao-Binga Hydroelectric Power-01, Agri-Vie 01/02

- IFC Policy on environmental and social sustainability": IFC investment timing in relation to a client’s business activity varies from transaction to transaction. IFC’s engagement often occurs well after the business activity is conceived, with the site selected and development started. In such cases, IFC will review the ESMS and risk management practices already in place, as well as the environmental and social assessment and community engagement undertaken by the client and/or any third party before IFC’s consideration of the investment” (para. 27).

- “When the project involves existing assets, environmental and/or social audits or risk/hazard assessments can be appropriate and sufficient to identify risks and impacts.” (PS1, para. 7).

- “Environmental and social audits (or due diligence) can be appropriate in the case of projects that involve existing assets, as well as property and asset acquisitions. (…) Audits should be used to identify risks and impacts, and to evaluate the effectiveness of the management system in place, conformity with the Performance Standards, and regulatory compliance. Environmental and social audits should provide identification and quantification of environmental and social risks and impacts, including liability, in a systematic, documented and objective process. The audit should document the main environmental and social aspects associated with the asset (… land acquisition issues … and external grievances, disputes), and identify the key environmental and social risks and impacts associated with the asset, including areas of past, current or potential future non-compliance with national requirements and the Performance Standards. The audit should also assess management and mitigation measures, and identify additional corrective actions required to ensure compliance. Improvement opportunities should be considered and identified, including, but not limited to, energy efficiency, cleaner technologies, water use reduction, emission reduction, safer working conditions, and community development programs. Audits should be aimed at establishing the baseline for the implementation of corrective actions and development of an effective ESMS for the project to be financed (PS1 para. 30).

- “Under certain circumstances, a government agency or other authority may provide a client with an unoccupied project site, unencumbered of any current claims, whose prior residents or land users were displaced. If resettlement from the site has occurred in anticipation of the project, but not immediately preceding project implementation, the client should make a determination as to whether those resettled were compensated in a manner consistent with the requirements of Performance Standard 5 and, if not, any corrective action is feasible to address the situation. Under such circumstances, the following factors should be considered: (i) the length of the intervening period between land acquisition and project implementation; (ii) the process, laws and actions by which the resettlement was carried out; (iii) the number of people affected and the significance of...” (p. 247).

Reference Table: CAO Advisory Comments on IFC Draft Good Practice Handbook on Land Acquisition and Involuntary Resettlement

<table>
<thead>
<tr>
<th>Stage</th>
<th>Specific aspects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Background</td>
<td>It is not uncommon for a private sponsor to address legacy resettlement under the following circumstances:</td>
</tr>
<tr>
<td></td>
<td>• Where a government agency (see table 8.2) has taken responsibility for land acquisition prior to the involvement of the private sponsor (example in a PPP context see table 8.3).</td>
</tr>
<tr>
<td></td>
<td>• Where a previous project sponsor (or a co-sponsor) has taken responsibility for land acquisition prior to the acquisition of the project by the current investor (see also section 8.1 for examples).</td>
</tr>
<tr>
<td></td>
<td>In such situations and if past land acquisition and resettlement activities have been significant, IFC (and/or other lenders applying similar ESAs) typically require an independent audit of past land acquisition and resettlement activities against IFC, PS1 requirements. Where directive actions are also necessary, corrective action plans may be warranted to bring the project into compliance.</td>
</tr>
<tr>
<td></td>
<td>This thematic guidance on legacy issues addresses the scope of this content of potential corrective action plans where such is warranted.</td>
</tr>
</tbody>
</table>

Table 6.4: Key Aspects to Consider in Legacy Issues
## Reference Table: CAO Advisory Comments on Estate Markets Functioning without Land Areas

The impact of land acquisition: (v) the relationship between the party that initiated the land acquisition and the client; and (v) the current status and location of the people affected. If corrective action is feasible and would improve the standard of living of the displaced people, the client should undertake corrective measures prior to the implementation of the project (para. 70).

### Guidance Note 5

- **Replacement cost is defined as follows:**
  - Agricultural or pastoral land: land of equal productive use or potential, located in the vicinity of the affected land or the new housing site, plus the cost of preparation to levels similar to or better than those of the affected land, and transaction costs such as registration and transfer taxes or customary fees (…).
  - Fallow land: market value of land of equal productive value in the vicinity of the affected land. Where value cannot be determined or land for land compensation is not feasible, in-kind communal compensation is recommended.
  - Land in urban areas: the market value of land of equivalent area and use, with similar or improved infrastructure and services preferably located in the vicinity of the affected land, plus transaction costs such as registration and transfer taxes.
  - Houses and other structures (including public structures such as schools, clinics and religious buildings): the cost of purchasing or building a replacement structure, with an area and quality similar to or better than those of the affected structure, or of repairing a partially affected structure, including labor, contractors' fees and transaction costs such as registration, transfer taxes, and moving costs.
  - Loss of access to natural resources: The market value of the natural resources which may include wild medicinal plants, firewood, and other non-timber forest products, meat or fish. However, cash compensation is seldom an effective way of compensating for lost access to natural resources (para. 22).
  - “The complainants also asserted that the expropriation of land resulted in landlessness and food insecurity. Those who received compensation for land could not afford to buy alternative land, because the land prices were higher than the compensation received. Without land, most of them were left with no source of income to provide for their families. Farmers alleged that when the palm oil project began on the island, many farmers were compelled to switch from growing coffee, cassava, and banana (matooke), to growing palm trees, and had to sell their crops to Bidco at prices lower than the market rate. As a result, more food had to be imported from the mainland, making the cost of food on the island higher.” Bidco-03 Assessment Report, p. 7.

### Examples of Stakeholder Voices in CAO Cases

- **Veil II-01:** Jobs and income losses: Farmers claimed that their income had been reduced due to the palm oil project because the land prices were higher than the market rate in the area. As a result, more food had to be imported from the mainland, making the cost of food on the island higher. Farmers who received compensation for their land were left with no source of income to provide for their families. Farmers also complained that the compensation they received was not enough to replace lost assets such as livestock, land, and infrastructure.

## Examples from the Draft Handbook

### Key cases:

- Cambodia Airports-01, Sihanoukville 05 & 07
- Agri-Vie 01 & 02
- Veil II-01, Bidco-03

### Other cases:

- Chad-Cameroon 03, Oyu Tolgoi-01/02, LCT 01/02, MPS-01, Wilmar 01, Lukoil Overseas-03, Nedbank Tier II-01

### Performance Standard 5

<table>
<thead>
<tr>
<th>CAO Comment</th>
<th>CAO Cases</th>
<th>Type of asset</th>
<th>With functional real estate market</th>
<th>Without functional market</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide further guidance on compensation for communal pool resources, severance, and land areas functioning real estate markets</td>
<td></td>
<td>Land</td>
<td>Comparative method: Value of similar land in analogous transactions in the last six months. Land registry offices usually hold information on recent land transactions. Some countries include data on the website of the land registration agency. Plus cost of land preparation to level similar or better. Plus transaction costs (registration, taxes, time lost, cost of transport).</td>
<td>Income method: Value is indirectly (income method) derived. The method is based on current income (net or expected from the land capitalization rate (long term interest rate). Plus cost of land preparation to level similar or better. Plus transaction costs (registration, taxes, time lost, cost of transport).</td>
</tr>
<tr>
<td><strong>Tier II</strong></td>
<td><strong>Nedbank</strong></td>
<td>Buildings</td>
<td>Value of similar buildings in analogous transactions in the last six months. Plus transaction costs (registration, taxes, time lost, cost of transport).</td>
<td>Plus transaction costs (registration, taxes, time lost, cost of transport).</td>
</tr>
<tr>
<td><strong>Nedbank</strong></td>
<td><strong>Overseas</strong></td>
<td>Animal</td>
<td>Value of the produce on the market multiplied by average yield (corrected for experienced area and season).</td>
<td></td>
</tr>
<tr>
<td><strong>Bidco</strong></td>
<td><strong>Veil</strong></td>
<td>Prenatal care</td>
<td>Cumulative loss of income experienced between the removal of reinvestment to a similar level of production. Plus cost of exploitation.</td>
<td></td>
</tr>
<tr>
<td><strong>Lukoil</strong></td>
<td><strong>Overseas</strong></td>
<td>Businesses</td>
<td>Loss of income experienced between the occurrence of the loss and the moment the business can reasonably be expected to be reestablished (typical costs for small businesses in emerging economies). Plus cost of physical relocation of equipment and structures if applicable (re-registration) and other costs.</td>
<td></td>
</tr>
<tr>
<td><strong>MPS</strong></td>
<td><strong>LCT</strong></td>
<td>Transaction costs</td>
<td>Cost of registration of new property, cost of reestablishment of forms of identity and other legal documents with official agencies and utilities, and indirect costs such as time lost to take care of other matters. Look at tax implications of the transaction for the affected household and other costs.</td>
<td></td>
</tr>
<tr>
<td><strong>Wilmar</strong></td>
<td><strong>Veil</strong></td>
<td>Moving costs</td>
<td>Cost of transportation of personal belongings (average cost based on size of household). Take account of any animals or agricultural equipment and storey produce that may need to be moved. Inquire with moving company trucks or tractors if necessary and add the cost of workmen and lorries.</td>
<td></td>
</tr>
</tbody>
</table>

Plus, detailed guidelines to calculate each of these values on pp. 48-54.

Reference Table: CAO Advisory Comments on IFC Draft Good Practice Handbook on Land Acquisition and Involuntary Resettlement
Provide further guidance on provisions for delayed compensation

- Cambodia Airports-01
- Oyu Tolgoi-01/02
- LCT-02
- Trans-Anatolian Pipeline-02
- MPS-01
- Wilmar MPS 02
- Lukoil Overseas-03
- Nedbank Tier II-01

**Reference Table: CAO Advisory Comments on IFC Draft Good Practice Handbook on Land Acquisition and Involuntary Resettlement**

<table>
<thead>
<tr>
<th>CAO Comment</th>
<th>CAO Cases</th>
<th>Performance Standard 5</th>
<th>Guidance Note 5</th>
<th>Examples of Stakeholder Voices in CAO Cases</th>
<th>Examples from the Draft Handbook</th>
</tr>
</thead>
<tbody>
<tr>
<td>• “The client will take possession of acquired land and related assets only after compensation has been made available” (para. 9).</td>
<td>• “There are delays between the cut-off date (and the subsequent establishment of restrictions) and the development of the project, including compensation for losses and resettlement of affected households and communities. The time between the establishment of the cut-off date and compensation of displaced individuals and communities should be limited. Losses generated by this restriction of land use should be compensated for by the client. The client should also consider ways to minimize impacts from cut-off restrictions such as planning development activities, so that affected farmers can harvest crops prior to displacement. Also a firm timetable should be adhered to or the client must be prepared to pay compensation for the delay.”</td>
<td>• “The lack of clarity perceived by communities about the status of their land and its acquisition has meant that landholders do not feel they can exercise rights over their land or make decisions about their future. They feel that their access to land, its use and the benefits derived from it have been limited by the delays in the land acquisition process, particularly when combined with the 2006 Government Decree which freezes sales of land related to the expansion of SIA. (...) A level of uncertainty regarding future plans and developments exists among all stakeholders and several factors have added to the delays in the acquisition process. During the period after 2006, the government representatives report high fluctuations in land prices and speculative pressures in the coastal areas of the country. Such dynamics have resulted in increased demand for compensation and placed unexpected budgetary pressures on the Commission in charge of resettlement. The global financial crisis has also had an impact on the expansion of the airport and the land acquisition process since it has diminished touristic activity in Shanalouville but it has also appeared to have stabilized land prices, creating a situation more conducive for meeting the expectations of land negotiation on all sides.” Cambodia Airports-01 Assessment Report, pp. 6-7</td>
<td>• “As a general rule, in projects where land acquisition and compensation may take place over several years (or where land-acquisition is delayed), compensation rates should be updated every year. This is particularly necessary for crop rates, as the value of most crops can fluctuate significantly in relation to fluctuations in both world and local markets. Sometimes an update will be necessary if market prices have changed between the initial surveys and the actual payment of compensation” (p. 55).</td>
<td>• “Where a private project sponsor is the source of funds for a government-run resettlement program, it may be possible for the client to organize direct disbursement of compensation to affected persons or enterprises based on a specific agreement with the government. This reduces administrative delays” (p. 71).</td>
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<tr>
<td>• “In certain cases it may not be feasible to pay compensation to all those affected before taking possession of the land, for example when the ownership of the land in question is in dispute. Such circumstances shall be identified and agreed on a case-by-case basis, and compensation funds shall be made available for example through deposit into an escrow account before displacement takes place.” (footnote 14).</td>
<td>• “However, there may be circumstances where delayed payment of compensation may be justified or beyond the client’s control. In addition, certain activities, for example seismic surveys, may lead to temporary disruption of economic activities and damage or destruction of property which can only be assessed and compensated for after the surveys are completed, once the damage is measurable. In such cases, compensation after the fact is acceptable” (para. 23).</td>
<td>• “We, residents of Garajemiri village of Shamkir region inform you that formerly 2 oil and gas pipelines passed through the lands for planting given us by the state. According them during the compensation the agreement was signed in dollar, and was paid in time without delay. The first agreement on the third gas pipeline was signed in 2014. The main agreement was signed in 2015. That time 100 USA dollar was 78 AZN. They did not pay our money after signing the agreement according that currency, prolonged time. After devaluation 3 times they paid the old currency.” Trans-Anatolian Pipeline-02 Complaint, p. 1.</td>
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<tr>
<td>CAO Comment</td>
<td>CAO Cases</td>
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<tr>
<td>Clarify guidance on compensation for losses caused by land-use restrictions on land that is ultimately not used</td>
<td>LCT-02, MPS-01, Wilmar-01, Lukoil Overseas-03, Veil II-01, Strominvest-01, Agri-Vie-01/02</td>
<td></td>
<td>“In the absence of host government procedures, the client will establish a cut-off date for eligibility. Information regarding the cut-off date will be well documented and disseminated throughout the project area.” (para. 12)</td>
<td>“Where these displaced persons own and occupy structures, the client will compensate them for the loss of assets other than land, such as dwellings and other improvements to the land, at full replacement cost, provided that these persons have been occupying the project area prior to the cut-off date for eligibility. Based on consultation with such displaced persons, the client will provide relocation assistance sufficient for them to restore their standard of living at an adequate alternative site.” (para. 22).</td>
<td>“In cases where a cut-off has been declared and land acquisition is cancelled due to a change in footprint, project sponsors should consider compensation for the disturbance to previously affected residents, landowners and land users.” (p. 40). The cut-off date may impose a significant restriction on project affected persons’ rights to enjoy and develop their property. (…) Where resettlement does not proceed (or occurs only after a protracted period) project proponents should consider compensation to be paid in recognition of the disturbance, restriction of use and opportunity cost it entails” (pp. 122-123).</td>
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<tr>
<td></td>
<td></td>
<td>“In the absence of host government procedures, the client will establish a cut-off date for eligibility. Information regarding the cut-off date will be well documented and disseminated throughout the project area.” (para. 12)</td>
<td></td>
<td>“During the assessment, complainants expressed two primary concerns to CAO. First, they consider that they have been affected by Strominvest’s feasibility study because the Minks city Government placed restrictions on their property. They informed CAO that they are not allowed to make any improvements to or to sell their property.” Strominvest-01, Assessment Report, p. 6.</td>
<td>“Often there are delays between the cut-off date and the subsequent establishment of restrictions) and the development of the project, including compensation for losses and resettlement of affected households and communities. The time between the establishment of the cut-off date and compensation of displaced individuals and communities should be limited. Losses generated by this restriction of land use should be compensated for by the client.” (para. 33).</td>
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<td></td>
<td></td>
<td>“Often there are delays between the cut-off date (and the subsequent establishment of restrictions) and the development of the project, including compensation for losses and resettlement of affected households and communities. The time between the establishment of the cut-off date and compensation of displaced individuals and communities should be limited. Losses generated by this restriction of land use should be compensated for by the client.” (para. 33).</td>
<td></td>
<td>“The gardeners allege that the PAL explained that when the gardeners were offered land, they would have to repay the costs for the purchase of the land. According to the gardeners, the proposed repayment was too expensive, and as a result there was no agreement reached to purchase land.” LCT-02 Assessment Report, p. 3.</td>
<td>“Upon announcement of the cut-off date, there is a tendency for affected persons to suspend normal livelihood activities and expect immediate compensation. It is important that they be encouraged to continue these activities until compensation measures have been agreed and they have been given notice to stop project-affected livelihood activities.” (p. 122).</td>
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<tr>
<td></td>
<td></td>
<td>“Economically displaced persons who are without legally recognizable claims to land (see paragraph 17 (iii)) will be</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>“The cut-off date may impose a significant restriction on project affected persons’ rights to enjoy and develop their property. (…) Where resettlement does not proceed (or occurs only after a protracted period) project proponents should consider compensation to be paid in recognition of the disturbance, restriction of use and opportunity cost it entails” (pp. 122-123).</td>
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</tbody>
</table>

Reference Table: CAO Advisory Comments on IFC Draft Good Practice Handbook on Land Acquisition and Involuntary Resettlement
compensated for lost assets other than land (such as crops, irrigation infrastructure and other improvements made to the land), at full replacement cost. The client is not required to compensate or assist opportunistic settlers who encroach on the project area after the cut-off date for eligibility." (para. 27).

Provide further guidance on disclosure requirements

Key cases:
• Cambodia Airports-01,
• Bujagali-05 & 07,
• Agri-Vie-01 & 02,
• Veil II-01,
• Bidco-03

Other cases:
• MPS-01,
• Wilmar-01,
• Nedbank Tier II-01

- The valuation method for determining replacement cost should be documented and included in applicable Resettlement and/or Livelihood Restoration plans" (footnote 10).
- Disclosure of relevant information and participation of Affected Communities and persons will continue during the planning, implementation, monitoring, and evaluation of compensation payments, livelihood restoration activities, and resettlement to achieve outcomes that are consistent with the objectives of this PS" (para. 10).
- "Disclosure of displacement eligibility and entitlements including compensation and livelihood restoration packages should take place sufficiently early in the project’s planning process to allow potentially displaced people sufficient time to consider their options" (para. 28).
- "The client should document the procedures for determining and awarding compensation in a Livelihood Restoration Framework that: (i) identifies all affected people; (ii) provides an inventory of affected assets; (iii) describes the methods applied for valuing land and other affected assets at full replacement cost; (iv) indicates the rates of compensation to be paid; (v) outlines a schedule of land take and compensation payments and the methods to receive payments; and (vi) describes the process whereby affected people can appeal property valuations they deem to be inadequate." (para. 37).
- "The complainants allege that Bidco, together with the GoU, are responsible for taking land from more than 100 smallholder farmers in Bugala Island, Kalangala District, for the purposes of palm oil production, in contravention of IFC Performance Standard 5 (Land Acquisition and Involuntary Resettlement). The complainants reported that the land was surveyed and cleared without the consent of the land occupants. However, some farmers were coerced into accepting the proposed compensation rate which were allegedly inequitable, as they did not consider the value of the houses and crops that were on the land prior to the appropriation or resettlement." Bidco-03, Assessment Report, p. 7.
- "Several complainants believe that the compensation process undertaken by the project in order to acquire their land for the electric-power transmission lines was flawed. They content that there was a lack of transparency in the compensation mechanism, and that there were inconsistencies in the valuation of crops, in the rates paid to each owner and between the early valuations versus the final amount paid." Bujagali-05 Assessment Report, p. 6.

Examples from the Draft Handbook

- Project ESSA: especially not ethical summary containing information on the causes and impacts of land acquisition and physical/ economic displacement
- Summary reporting report: key issues, risks and impacts, and outline of resettlement planning.
- IAP or LRP: the latter in cases of economic displacement
- IOM
- GLAC
- Communication plans, notices, and leaflets
- Baseline surveys: overall purpose, who will undertake it, when and how, community involvement in PA activities and household questionnaire survey
- Household asset surveys: purpose and nature of the survey, who will conduct it, and when and why
- Ownership titles and registration: project assistance should be available to formally register land titles, inheritances, and so forth
- Cut-off dates: notice of cut-off for eligibility for compensation, including ex-annuities and new infrastructure, crops, and other assets—information documented and disseminated throughout the project area
- Compensation assessment: notice of discussion with each household; compensation measures based on the household asset survey (when and how)
- Compensation payments and restitution measures: notice of payments implementing other mitigation measures, such as construction of housing, re-irrigation of other crops on land, and so forth (when and how)
- Relocalization implementation: notice of data relocation, transport information on how to adjust to new circumstances, such as change from urban to rural livelihoods
- MEE reports: regular MEE assessments (for example, quarterly or biannual)
- Internal project MEE reports may be confidential, but they can be summarized
- Independent external MEE reports are publicly discloseable, inc.

Reference Table: CAO Advisory Comments on IFC Draft Good Practice Handbook on Land Acquisition and Involuntary Resettlement
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<thead>
<tr>
<th>CAO Comment</th>
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<th>Performance Standard 5</th>
<th>Guidance Note 5</th>
<th>Examples of Stakeholder Voices in CAO Cases</th>
</tr>
</thead>
</table>
| Provide additional guidance to assist clients with community engagement | Key Cases:  
- Bujagali-05,  
- Oyu Tolgoi-01/02,  
- Nedbank Tier II-01,  
- Myanmar Awba Group-01,  
- Wilmar-01 |  
- “The client will engage with Affected Communities, including host communities, through the process of stakeholder engagement described in PS1 (para. 10).”  
- “The consultation process should ensure that women’s perspectives are obtained and their interests factored into all aspects of resettlement planning and implementation. Addressing livelihood impacts may require intra-household analysis in cases where women’s and men’s livelihoods are affected differently. Women’s and men’s preferences in terms of compensation mechanisms, such as compensation in kind rather than in cash,” |  
- “While the establishment of resettlement committees can support the resettlement plan and communication efforts, steps should be taken to ensure that all potentially displaced people are informed and invited to participate in decision making related to resettlement” (para. 26).  
- “As described in PS1, informed participation involves organized and iterative consultation, leading to the client’s incorporating into its decision-making process the views of the affected households and communities on matters that affect them directly (para. 27).”  
- “Special measures may include focus groups with vulnerable and at-risk groups; ensuring that resettlement committees include members of vulnerable, at-risk and disadvantaged groups, and ensuring that Project staff has representatives from these groups (such as women, elderly, disabled). In some cases special efforts must be made to ensure that vulnerable members have access to consultation events or discussion forums. Examples of how this can be done include provision of transportation and visits to individual households. Persons identified as vulnerable should be assisted to fully understand their options for resettlement and compensation, and encouraged to choose the option with the lowest risk” (para. 29). |  
- “Several complainants believe that the compensation process undertaken by the project in order to acquire their land for the electric-power transmission lines was flawed. They contend that there was a lack of transparency in the compensation mechanism, and that there were inconsistencies in the valuation of crops, in the rates paid to each owner and between the early valuations versus the final amount paid. There are also some lands for which they believe the owners were never compensated. The community members also raise wider concerns about the consultative committee that was put in place by the project, and the extent to which it was sufficiently participatory” Bujagali-05 Assessment Report, p. 6.  
- “The Complainants expressed dissatisfaction with the level of consultation by the Company on the construction of the new factory. They stated that, where consultation was done, the Company was only giving information to the community about the factory, the new technology which had been installed, and the modern processes that will be utilized. There was no opportunity afforded to the community to ask questions, or to express their concerns about the factory. Furthermore, the Complainants claim that they do not have access to “Seek to facilitate representation of affected groups and engage these representatives throughout the planning process” (p. 73).”  
- “Well-formed and well-organized committees are useful to the SE process. The need for, and adequacy of, resettlement committees should be considered at the scope stage (…) and implemented when planning when planning and associated field activities commence, including surveys” (…). There are different models of organizational structures and representation, and the engagement strategy must be tailored to the needs of the project, government institutional arrangements for land acquisition, and the needs of affected communities” (p. 77). |
<table>
<thead>
<tr>
<th>CAO Comment</th>
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<th>Examples from the Draft Handbook</th>
</tr>
</thead>
</table>
| should be explored." (footnote 16). | | | | the Company if they want to raise concerns. They claim that they have requested meetings with the Company to understand the potential harm to the community, but that the Company has not responded to these requests. The only consultation done with the community was with regard to corporate social investment (CSI)." Myanmar Awba Group-01 Assessment Report, p. 4. | 147. The following points should be considered in establishing resettlement committees:
- Select representatives: Members are generally chosen but may be selected by groups they represent. Committees should be inclusive of vulnerable or marginalized groups. Members should represent a cross-section of the affected community, including youths, business persons, fisherfolk, and others, where applicable. While the size of the committee should not exceed 12 to 15 persons, the processes and procedures for selecting, convening, and operating these committees should be well known and well accepted locally, and can be used for resettlement committees with membership and scope that are different.
- Agree beforehand on scope and mandate of the committee: Costs are generally borne by the company, although there can be more effective cultural contexts, such as rural and urban, in certain cultural contexts.
- Build capacity of committee members as needed: While the affected communities are aware of associated legal issues, consider training and awareness committee members on legal issues such as environmental law, land law, compensation, and redress, and so forth. The project should provide them with practice examples, facilitate visits to other similar resettlement projects directly with community representatives where possible.
- Include marginalized or vulnerable groups, possibly separate disaster-affected groups: In some contexts, it may be more effective to engage representatives of ethnic minorities, indigenous groups, women, youth, or other groups that are affected by the resettlement process and include them in the committee.
- Establish effective frequency and duration of resettlement committee meetings:
  - It is important to meet with committees regularly (in general fortnightly during the peak of resettlement planning, and possibly quarterly later).
  - Projects should focus meetings on key issues to be addressed and resolve any debate or conflict among committee members with information. Rather than meet as often as possible, meetings or workshops to address a manageable number of agenda items are more effective.
  - Project should not make demands on the time of community representatives, who often spend much of their time in day-to-day subsistence activities (for example, tending crops and livestock or fetching water and firewood). There should be shorter and more participative processes.
- Pay reasonable sitting allowances: It is good practice to pay reasonable community representatives attending committee meetings. This must be transparent and other expenses (if transport is not provided by the project) should be reasonable in compensation for time inputs. The project legal department shall provide clear and transparent legal arrangements that ensures such payments and other provisions (for extractive projects adhering... |
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Clarify rationale and provide further guidance related to grievance management</td>
<td>• Bujagali-07, Reventazon-01/02, RCBC-01</td>
<td>• “The client will establish a grievance mechanism consistent with Performance Standard 1 as early as possible in the project development phase” (para. 11).</td>
<td>• “Regardless of scale, involuntary resettlement may give rise to grievances among affected households and communities over issues ranging from rates of compensation and eligibility criteria to the location of resettlement sites and the quality of services at those sites. Timely redress of grievances through an effective and transparent grievance mechanism is vital to the satisfactory implementation of resettlement and to completion of the project on schedule.” (para. 30).</td>
<td>• “The client should make every effort to resolve grievances at the community level without impeding access to any judicial or administrative remedies that may be available. The client should ensure that designated staff are trained and available to receive grievances and coordinate efforts to redress those grievances through the appropriate channels, taking into consideration any customary and traditional methods of dispute resolution within the Affected Communities (...).” It should be readily accessible to • “In general, since the inception of the project, the complainants feel that they have: suffered real and extensive losses as a result of the construction of the transmission line; been poorly informed by UETCL and governments of the mechanisms and processes put in place to deal with grievances and claims for compensation (...).” Bujagali-07 Assessment Report, p. 7.</td>
</tr>
</tbody>
</table>

**Table 3.6. Representation and Leadership of Affected Communities**

<table>
<thead>
<tr>
<th>When dealing with</th>
<th>Verify</th>
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<tbody>
<tr>
<td>Community leaders and government focal representatives</td>
<td>• The legitimacy and constituencies of community leaders and representatives early on and their consultation with community participation and inclusive process (namely, that all values marginalized groups are included in consideration—women, minorities, informal land users).</td>
</tr>
<tr>
<td></td>
<td>• That they genuinely represent the views of the overall affected and various subgroups and not their own particular interests.</td>
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<td></td>
<td>• That government officials, community leaders, and representatives convey information and the results of consultations.</td>
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<td></td>
<td>• That initial and regular meetings are held effectively with affected community representatives, for example, training processes, provision of support documents such as training participation techniques (refer to section III, Engagement Tools, of this module).</td>
</tr>
</tbody>
</table>

(p. 98).

- “Establish early in the resettlement process steering and working groups with substantial PAP representation to ensure effective coordination, alignment, and information transfer among all key stakeholders, including the relevant governmental and municipality agencies” (p. 184).

II. Establishing a RAP-GM

213. The following are key aspects to address when establishing a RAP-GM:

- Assign staff to implement and be responsible for the management of the RAP-GM: it may be possible to assign this task to one person, but for larger projects, it may be required.
- Ensure that adequate resources (people, systems, and processes, budget, and management) are available to implement the RAP-GM, especially at the grievance stage, as the processes of collection are likely to be high (due to staff surveys, negotiations, and physical relocation to resettlement sites).
- Ensure consistency of the RAP-GM with the RAP database, particularly in the identification of grievances, which must relate to and be consistent with the identification of plots or households in the overall RAP database.
- Ensure that decisions taken to resolve grievances are supported by project documents. The project manager should clarify RAP-GM team meetings to agree on correct resolution strategies.

Reference Table: CAO Advisory Comments on IFC Draft Good Practice Handbook on Land Acquisition and Involuntary Resettlement
Provide guidance on supplementary activities following government-led land acquisition processes

- Bujagali-07, Reventazón-02, MPS-01, Vizhinjam-01/02/03, Veil II-01, Lynas Overseas-03

• Where land acquisition and resettlement are the responsibility of the government, the client will collaborate with the responsible government agency, to the extent permitted by the agency, to achieve outcomes that are

"Host governments are often responsible for planning, and implementing the physical and economic displacement, carrying out the land acquisition, compensation payments, and resettlement in preparation for a private sector project or as a direct sponsor of such projects. The outcome of this process should be consistent with the requirements of Performance Standard 5. In such cases, clients should take an active role during the preparation, implementation and monitoring of the process and should coordinate with the relevant

occasions, and although some interactions took place, their concern remains unaddressed.

Reventazón-02 Assessment Report, p. 6

The complaint raises broader issues about (…) absence of grievance mechanisms for the affected communities." RCBC-01 Assessment Report, p. 6.

Examples of Stakeholder Voices in CAO Cases

Provide guidance on supplementary activities following government-led land acquisition processes

The complaint raises broader issues about (…) absence of grievance mechanisms for the affected communities." RCBC-01 Assessment Report, p. 6.

Examples of Stakeholder Voices in CAO Cases

- ICE (the project sponsor) explained that there was a complex set of regulations they had to follow for the execution of the land acquisition plan, including the Political Constitution; the Law on Acquisition, Expropriation, and Easements; the Expropriation Law, the project sponsor’s own environmental policies and environmental guidelines for the energy sector; and compensation measures established in the project’s EIA. Moreover, the project sponsor indicated that they had to align, their resettlement policies with the operational policies of the IDB and

Examples from the Draft Handbook

address grievances, so that decisions can be readily confirmed and resources implement the agreed actions. This is particularly important where con-"312. The following sections summarize the structure and operation of a GM. (Ref Practice Note: Addressing Grievances from Project-Affected Communities)“ for a grievance management scheme.

Receivance mechanism Applicability

| Independent third-party mediator or consultant | Independent third-party acceptable to both community and project, such as a trusted NGO with land experience and strong relationship with the affected community or individual, or other notable and impartial person |
| Independent consultant or specialist | Small-scale resettlement projects with fewer households and a limited number of grievances |
| External independent parties (for example, experts with experience in land, international laws, and cultural norms, and trained and respected community members) | Large-scale projects with complex land acquisition processes and large numbers of affected households |

Key issues to consider

Provide guidance on supplementary activities following government-led land acquisition processes

- Bujagali-07, Reventazón-02, MPS-01, Vizhinjam-01/02/03, Veil II-01, Lynas Overseas-03

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<td>consistent with PS5* (para. 30).</td>
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<td>IFC (Performance Standard 5: Land Acquisition and Involuntary Resettlement): Reventazon-01 Assessment Report, p. 10.</td>
<td>The Complainant claims that in April 2015, her lawyer wrote to the GPHA informing them that terminating a valid lease was illegal. However, no response was received. She alleges that GPHA then proceeded to block access to the facility, drug trenches in front of her premises, and hired armed guards to guard the premises so that people would not have access to the facility. The Complainant’s lawyers filed for an urgent injunction against GPHA’s actions. In December 2015, the court granted the injunction. The Complainant alleges that GPHA did not leave the premises until five days after the injunction and only after Ave Maria’s lawyers wrote to all the board members of GPHA. The Court encouraged the Complainant and GPHA to seek an out-of-court settlement. (…) MPS-01 Assessment Report, p. 3.</td>
</tr>
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</table>

• “In the case of acquisition of land rights or access to land through compulsory means or negotiated means of displacement involving physical displacement, the client will identify and describe government resettlement measures. If these measures do not meet the relevant requirements of this Performance Standard, the client will prepare a Supplemental Resettlement Plan that, together with the documents prepared by the responsible government agency, will address the relevant requirements of PS5 (…)”. The client will need to include in its Supplemental Resettlement Plan, at a minimum (i) identification of affected people and impacts; (ii) a description of regulated activities, including the entitlements of displaced persons provided under applicable national laws and regulations; (iii) the supplemental measures to achieve the requirements of this PS as described in paragraphs 19–29 in a way that is permitted by the responsible agency and implementation time schedule; and (iv) the financial and implementation government authorities those aspects of the process that can be facilitated more efficiently by the client or other agents such as consultants or civil society organizations. Whether the client will be permitted to play an active role will depend in part on applicable national law and the judicial and administrative processes and practices of the responsible government agency. (…). The client will assess at appraisal the extent to which the client will be able to collaborate with the responsible government agency and agree on the key outcomes that need to be achieved to ensure consistency with Performance Standard 5. Where the client ascertains that the outcome of the government-managed resettlement is unlikely to meet the requirements of Performance Standard 5, and the client is unable or not permitted to fill the gaps required to meet those requirements, consideration should be given to not proceeding with the project” (para. 68). |

• “Under government-managed resettlement, the client should collaborate with the appropriate agencies to establish methods for determining and providing adequate compensation to the affected people in the Resettlement Action Plan or Framework. Where national law or policy does not provide for compensation at full replacement cost, or where other gaps exist between national law or policy and the requirements with respect to displaced people detailed in Performance Standard 5, the client should apply alternative measures to achieve outcomes consistent with the objectives of Performance Standard 5. Such measures could range from making or arranging for the payment of supplementary allowances in cash or in kind, to arranging for the provision of dedicated support services. These gaps and measures should be addressed in a Supplemental Action Plan” (para. 71). |

• “While government agencies are often mandated to lead resettlement efforts, experience indicates that there are generally opportunities for clients to either influence or supplement the planning, implementation and monitoring of government-led resettlement to achieve outcomes consistent with Performance Standard 5” (para. 74). |

• “Involuntary Resettlement).: Reventazon-01 Assessment Report, p. 3. |

Examples from the Draft Handbook

- Depreciated value rather than full replacement cost.
- Compensation for land may be at cadastre value, which is low market or full replacement cost.
- Provisions for compensation of businesses generally fall short international requirements.
- People cannot choose between several compensation options. Compensation is typically in cash only, although some periodic provisions for resettlement, replacement properties, or property exchanges.
- Informal users are typically excluded from compensation.
- Evictions may have taken place with limited safeguards or due diligence.
- Livelihood restoration is usually not required, and livelihood socio-economic baseline information is not gathered as a result.
- There are usually no provisions for vulnerable people in land legislation, but other legislation addressing vulnerable people exists.
- Planning documents (RAP/LRP) are generally not required.
- M&E is not required.

Even when land acquisition is a responsibility of the project, government may have to intervene (through expropriation) to provide avenue to address difficult cases (aborted or deceased landowners, pets to negotiate, and so forth).

Where local law or specific project legal arrangements require the government land acquisition, these gaps may be difficult to overcome unless specifically by the project proponent early in the process of developing the project, with a legal formalization in project agreements or other legal documentation.

Scoping these issues as early as possible is paramount, so that mitigation is developed and formally legalized. See the points above. Check the legal background for government-land acquisition and identify gaps per usual gap analysis process (see also “Scoping and Risk Assessment of Land Acquisition Impacts”).

Engage government and provide capacity building if required: work relevant officials on PS5 and good practice, “business case” for the st project, and the affected population.

Seek formal agreement from government or standards, with particular the following:

- Compensation at full replacement cost and related valuation methodologies

Reference Table: CAO Advisory Comments on IFC Draft Good Practice Handbook on Land Acquisition and Involuntary Resettlement

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<td>responsibilities of the client in the execution of its Supplemental Resettlement Plan” (para. 31).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>- In-kind compensation (resettlement, land-for-land) rather than cash</td>
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<tr>
<td>“In the case of projects involving economic displacement only, the client will identify and describe the measures that the responsible government agency plans to use to compensate Affected Communities and persons. If these measures do not meet the relevant requirements of this Performance Standard, the client will develop an Environmental and Social Action Plan to complement government action. This may include additional compensation for lost assets, and additional efforts to restore lost livelihoods where applicable.” (para. 32).</td>
<td></td>
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<td></td>
<td>Look into cost-sharing arrangements whereby the government funds local legislation while the private project procures finances supplied arising from the application of IFC PSs.</td>
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(pp. 244-245). |

(pp. 240-241). | V. SPECIAL M&E CONSIDERATIONS IN GOVERNMENT-LED RESSETLEMENT |

497. Where a government agency leads resettlement for a private-sector project, it of the private project sponsor under PS5 to provide for monitoring of governance efforts. Governments’ monitoring systems generally focus on accountability spending. Seldom do such systems provide the type of social and livelihood monitoring PS5 and described in this handbook. The project’s private sponsor will therefore be monitoring and reporting arrangements that can both meet the objectives of PS5 as to government agencies. Experience indicates that this is generally possible as discussed early in the process and monitoring objectives and plans with respective are clearly spelled out. Preparing a RAP, even if government processes do not re- formulate respective commitments and responsibilities of the parties. |

(pp. 240-241). |