



AFRICAN DEVELOPMENT BANK GROUP

PROJECT : TRANSPORT SECTOR (PHASE 2) AND RELATED AGRICULTURAL AND RURAL INFRASTRUCTURE SUPPORT PROGRAMME (PAST 2)

COUNTRY : CONGO

SUMMARY OF FULL RESETTLEMENT PLAN (FRP)

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INTRODUCTION

The summary of Full Resettlement Plan (FRP) for the Milamila - Mossendjo Road Construction Project presented in this document defines the underlying principles and conditions for compensating project affected persons and makes budget estimates for its implementation.

The plan has identified **611** properties that will be affected by the project. It also indicates their socio-economic status, the value of impacted assets, compensation conditions, institutional responsibilities and an indicative implementation schedule. The aim is to: (i) compensate people who either own land and built structures or undertake agricultural or commercial activities, as well as trees in production and graves in the road's right of way for loss of income and at replacement cost of the market value; and (ii) foster, through public consultation, their participation in the planning and implementation of the plan.

1. PROJECT DESCRIPTION AND TARGET AREA

1.1. Project Description and Rationale

The development and asphaltting of the Mila-Mila – Makabana – Mossendjo Road constitutes an alternative to the Brazzaville-Libreville road since, through it, Franceville (Gabon) can be reached directly from Brazzaville and Pointe-Noire, with a road/rail inter-modal possibility in Franceville and at significant time gains. Today, Congo is committed to economic diversification and development of agricultural production in order to slow down the worsening of the poverty rate, reduce dependence on the oil sector and strengthen food security in the country.

The road links up the capital town of Niari Department, while also serving a network of adjoining roads as well as several towns and villages over a distance of **117 km**. Modernizing the project road will remedy deficiencies noted by several documents that have considered the transport development and planning strategy. It is an important aspect in efforts towards improving living conditions and reducing poverty – factors that will help to strengthen national cohesion, improve food security and reduce poverty. Apart from the road works, there are also plans to rehabilitate related rural, agricultural infrastructure, improve key crop yields in the target area, enhance the value of agricultural products, rehabilitate socio-educative infrastructure, and develop infrastructure for women's groups and youth integration. The total cost stands at close to CFAF 133,918,000.

1.2. Main Characteristics of the Project Area (PA)

The project area (PA) is located in Niari Department, one of the ten departments in the Republic of Congo, with a land area of about 25,941 km². It is bounded to the North by the Republic of Gabon, to the South by Cabinda (Angola) and the Democratic Republic of Congo, to the East by Lekoumou and Bouenza Departments, and to the West by Gabon and Kouilou Department. It comprises ten full municipalities, five urban municipalities and fourteen sub-departments. The PA is developing in Louvakou (Mila Mila village), Makabana, Moutamba-Tsimba, Mossendjo, MOUNGOUNDOU-SOUTH, Mayoko and Mbinda (Gabon border) sub-departments. The area is recognized as the bread basket of the country.

The **population** of sub-departments/municipalities concerned with the project (Louvakou, Makabana, Moutamba-Tsimba, and Mossendjo) was estimated at over **51,195** people in 2007,

representing 22.1% of the population of Niari Department estimated at **231,271** people, 51.9% of them women, while the population of the entire Congo is **3,697,490** – 50.85% of them women. This population is evenly distributed throughout the entire project area and is mostly rural.

The **poverty rate** remains very high in rural areas (55%) due mainly to the remoteness of the region crossed and to the surrounding populations' lack of access to basic socio-economic infrastructure.

The **main activities** of the population in the area are:

- (i) **Agriculture**, which remains the main activity of the local populations. The technique used is shifting cultivation with slash and burn, but without inputs/fertilizers. Mixed farming is widely practised. Farming tools are rudimentary and manpower comes basically from the family. The main crops grown are: cassava, groundnuts, maize, oil palm, squash, onion, cowpea, yam, fruit trees, and market gardening.
- (ii) **Stockbreeding** is done traditionally and undertaken for social security or financial reasons. All species are left to roam freely, and herd sizes are more or less large. The species are cattle, sheep, goats and poultry.
- (iii) **Fishing** is carried out on Niari River, Louessé River and other water bodies and marshes, some of which are far from villages. Crustaceans (shrimps) remain the most widely harvested species in the project area.
- (iv) **Handicraft** is not developed in the area, and is not done for money. **Tourism** is not very developed either. It is noteworthy that no touristic site will be affected by project works.

1.3 Project Alternatives

The “without-project” situation is tantamount to leaving the road section and access roads to production basins in their current, very dilapidated state, including the trouble caused for various users.

This situation, which penalizes projects development and is now very costly, is not consistent with the Congo Government policy or with its economic and social development strategy. The status quo is also not consistent with the spirit and principles of improving the transport system and road infrastructure in the country.

Three levels of development for the “with-project” alternative were: **(i)** an earth road motorable throughout the year, with a 10m wide platform closely following the existing alignment; **(ii)** a road economically paved with a two-layer surface for a 7m-wide pavement and single-layered shoulders with a width of 2x1.5m; and **(iii)** a bitumen concrete road for a 7 m-wide pavement and two-layer shoulders with a width of 2x1.5m. From an **environmental and social standpoint** and in line with the implementation study conducted prior to the operational phase, specific and localized alignment optimizations can be preferable to crossing a spill or even displacement of constructions.

Related rural agricultural infrastructure that will be rehabilitated include feeder roads (access infrastructure), drinking water supply, the development of areas for agricultural inputs drying and shops, the rehabilitation of Social Action Districts (CAS) and construction of multi-purpose platforms. As regards feeder roads, the rehabilitation works will comprise: platform resurfacing with gravel materials, platform compacting and rehabilitation of cut-off drains. The 6 m width of the road includes the shoulders and grips.

2. POTENTIAL IMPACTS AND RELATED MEASURES

2.1 Impacts during the Pre-Construction Phase

Since environmental impacts are considered in the ESIA report, this FRP presents only impacts that are related to damage done to land used for socio-economic activities.

The main **negative impacts** generated by the resettlement of the population could be summarized as follows: loss of compounds and buildings; (ii) temporary loss of commercial or agricultural income; (iii) loss of fruit and shade trees; (iv) loss of collective facilities; (v) displacement of population to a new site; (vi) social and psychological integration of project affected persons (PAP) on the host site; (vii) longer transport time for PAP due to displacement; (viii) heavier workload for women during displacement and resettlement; (ix) disruption in quality of life due to relocation and resettlement of the population.

The project will have a direct impact on: 606 houses in 18 villages (10 villages for Lot 1 and 8 for Lot 2), and 2,443 fruit trees, affecting close to 597 households, 148 of them headed by women, with 2,925 dependants, given the average household size of 4.9). The project will also have an impact on 11 churches, 1 primary school, 3 markets, 1 integrated health centre, 2 boreholes, 2 neighbourhood centres, 1 forestry economy office, and 600 graves. The total land area to be expropriated is 199,037 m² (19.9 ha) with built assets.

During clearance of the right of way of the Mila-Mila –Mossendjo road, displacement from one site to another will not be necessary. Indeed, no compound will be impacted at over half of its buildings or its residential spatial area. Special attention will be given to ensuring that vulnerable persons do not find themselves in a more precarious situation.

The general list of Project Affected Persons (PAP), on which census was reached in July 2015, can be consulted at DGGT, the Delegated Contracting Authority.

2.2 Impacts during the Operational Phase

During the installation of camp bases and mobilization of machines and works: (i) activities undertaken in the immediate vicinity of some transversal access roads (level crossing or grade separation), as well as pedestrian tracks will be disrupted. Deviations will be necessary. Boundary stones and provisional demarcation will be established, and unguarded level crossings will be indicated; (ii) clearing and small-scale tree felling will be necessary; (iii) the displacement of some networks, especially electricity and telephone networks, as well as the displacement of fences will be required by the works. This activity is crucial so as not to interrupt rail traffic.

3. ORGANISATIONAL RESPONSIBILITY

The Ministry of Land Tenure and Public Property is responsible for expropriation and compensation procedures. The Major Infrastructure Works Department (DGGT) will supervise the project, in line with its duties as delegated contracting authority and principal contractor for all new works in the Republic of Congo, through the CERB-BAD Implementation Unit to which engineers and experts from the General Directorate of Equipment (Ministry of Public Works and Equipment) will be seconded. CERD-BAD is already well acquainted with Bank procedures through various similar projects, including PAST1 (Dolisie-Doussala) already under way. For greater effectiveness, CERD-BAD/DGGT will bring on board skills from other administrative structures, including: (i) the General Directorate of Territorial Management and Regional Development; and (ii) the Executive Bureau of the Niara Departmental Council.

The CERD-BAD Project Implementation Unit will be responsible for implementing the FRP, working closely with representatives of Ministries involved at national and departmental levels, especially those in charge of agriculture, health, primary/secondary education, literacy, women's integration in development and women's empowerment, social affairs and humanitarian action, as well as the General Directorate of Territorial Management and Regional Development, the Executive Bureau of Niara Departmental Council and local NGOs. An Environmental and Social Expert within the Project Management Unit will be responsible for the FRP implementation and internal monitoring.

Compensation operations will be conducted by the Ministry of Land Reform and Public Land Preservation (MRFPDP), which has appropriate internal skills for this task to be undertaken jointly with the Major Infrastructure Works Department's specialized services and the technical Ministries involved.

The Ministry of the Plan and Regional Development, particularly the General Directorate of Regional Development will, by virtue of its duties, monitor the compensation and resettlement plan.

Locally, the Prefect of Niari will liaise with sub-prefects, mayors, village chiefs of the localities crossed to foster proper conduct of the expropriation, compensation and resettlement exercise.

The activities of the Project Compensation Committee will include:

- Update, six months before works start-up, the inventory of property affected by the project;
- Re-assess, where necessary, the amounts proposed by the Consultant in charge of studies;
- Formally identify all owners of affected properties by official identification papers or public testimony in the presence of quarter heads;
- Pay compensation to affected property owners, at least 6 months before start-up of works;
- Register and seek amicable solutions to owners' claims and complaints;
- Undertake information and awareness campaigns targeting affected persons at all stages of the resettlement and compensation process;
- Provide assistance to vulnerable persons at all stages of the resettlement and compensation process.

4. COMMUNITY PARTICIPATION

After adopting its programme, DGGT organized information seminars attended by the civil population, local elected officials, administrative officials, NGOs and other associations. A PIU mission visited the project site, between Mila-Mila-Makabana-Mossendjo, to identify persons and property likely to be affected. During consultations, the methods used for assessing improvements and the procedures in force were explained. Thereafter, the civil population and local elected officials expressed their support for the project, confirming their total readiness to collaborate to facilitate its implementation. Furthermore, they requested that the adjoining feeder roads connected to the project road be developed.

The views collected were taken into consideration. Four (4) public consultation meetings were held from 10 to 12 April 2014 at Mila-Mila, Makabana, Mountaba-Tsimba and Mossendjo, bringing

together the representatives of villages, administrative/local authorities, Niari-based Departmental Directorates and the Consultant's Experts to present the project.

Two other meetings were held at Makabana and Moutamba in July 2015.

These consultations revealed the determination of the people met, the administrative authorities and representatives of the population to support the project and recommended particularly that:

- the project should avoid or reduce as much as possible the destruction of houses and involuntary displacement of persons. They recommend that, where possible, compensation should be paid for built and commercial assets and to persons directly affected by loss of trees in production (agricultural assets);
- local labour should be used and trained to carry out subordinate tasks on the future site;
- the project should find solutions to problems relating to road safety and road-side activities.

The fears expressed concern:

- non-respect of the rights of landowners during the opening of borrow sites;
- weakening of customs;
- destruction of sacred sites and graves;
- fears that compensation may not be commensurate with the losses incurred;
- need to lodge an appeal in case of dissatisfaction with compensation received.

Their expectations are mainly the following:

- Rehabilitation and construction of additional classrooms of primary schools with durable materials;
- Construction of fences around schools and health centres;
- Rehabilitation and/or construction of boreholes, preferably in primary schools and health centres;
- Construction of a bridge on the Itsibou River which divides Tsimba village into two;
- Public lighting along the road;
- Timely completion of the project;
- Creation of many jobs for the local population.

As regards public information dissemination, the FRP was made available to displaced persons and local NGOs at an accessible place in a form and language that is comprehensible to them.

Furthermore, each affected person present at the time of land investigation participated in the identification and quantification of their properties (measurements and description of houses, counting of trees and graves) in the 18 villages and 2 neighbourhood committees (CQ7 and CQ8)) of Makabana concerned.

Furthermore, Congolese Law No. 11-2004 of 26 March 2004 on expropriations for reasons of public utility provides for: **(i)** public information of the parties concerned; **(ii)** the publication, by the media, of the deed of declaration of public utility (DPU), followed by, **(iii)** a two-month administrative enquiry dated as from its publication.

During this period, the public can also submit comments, questions or objections to the plan as presented in the public register. Once the PAP list is validated by the Land Enquiry Commission, an information meeting will be organized at the chieftowns of municipalities and districts to which all the persons identified are invited. The meeting will provide information on: (1) the project and its interest; (2) positive and negative impacts, including land acquisition; and (3) existing compensation procedures.

Local authorities will relay the information to the population. When the valuation commission travels to assess the compensation amounts, project affected persons must be given the opportunity to express themselves.

5. INTEGRATION IN HOST COMMUNITIES

The project does not incur any displacement or relocation. The **2,925** PAPs will remain where they currently reside, maintaining their lifestyles and economic and social activities. Worship sites and markets will be reconstructed in the same areas and villages.

Consequently, the issue of integration in host communities does not arise since affected persons will remain in the same zones and will be their own hosts.

6. SOCIO-ECONOMIC STUDIES

6.1 Identification of PAPs

DGGT, through CERD-BAD and Dolisie Regional Directorate, conducted an identification campaign and drafted a comprehensive land status report to identify persons likely to be affected by the project, thus determining eligibility for compensation pursuant to the laws and practices in force in Congo.

The identification, conducted on a strip of land 25m wide as recorded on lists and detailed survey plans, identified mainly the nature and status of parcels and the types of houses and fruit trees found thereon. Normally, the project affected persons (PAPs) are identified in terms of occupancy rights and nature of expropriation by the municipality. The identification also counted the number of graves on the 25m right of way.

Table 1 below presents the situation of the project's direct impacts on the populations by village and work lot.

Table 1: Aggregated Results of PAPs Identification

Villages	Community Facilities	Total	Vulnerable Persons (Women Household Heads)	Land Area m ²	Houses	Fruit Trees	Graves
MAKABANA	4	38	2	10,177	6	67	30
MINGOUENGOUELE		71	20	20,014	64	112	-
MATALILA I		5	1	1,198		35	74
MATALILA II		32	8	7,284	23	69	150
BOUBIANGA I		18	4	10,344	29	101	4
BOUBIANGA II	2	43	7	22,915	43	85	100
PK 106	2	24	3	7,973	9	76	100
PK 109	2	67	15	16,267	10	102	20
MAYITOUA	1	35	13	9,744	49	117	-
MABAFI		41	7	19,431	15	314	50
Total 10 villages lot1	11	374	80	125,348	248	1,078	
TITI		4	1	2,349	5	28	-
NGALA		5	2	1,380	2	391	-
BONGOTO		2		280	1	16	-
LOBOMBO		5		1,776	7	57	-
KANGA		19	4	4,489	30	262	-
ITSOTSO	5	60	19	17,274	52	297	-
TSIMBA	5	66	15	12,323	194	185	22
MASSANGA		76	27	33,819	89	128	50
Total 8 villages lot 2	10	237	68	73,689	380	1,364	-
TOTAL	21	611	148	199,037	628	2,442	600

6.2 Housing/Living Conditions and Socio-Collective Facilities

Housing in rural areas is concentrated along the road network and dominated by villages with less than one hundred (100) people, representing close to 60% of human settlements in Niara Department. Virtually all houses are built with baked bricks or plank and roofed with thatch or corrugated iron sheets. Flooring is done with polished earth. Over 70% of houses in urban areas (Makabana and Mossendjo) are built with baked bricks or cement concrete. In 2009, CNSEE conducted an assessment of the level of well-being of the population of the various departments, as part of ESIS. It confirmed that significant disparities exist in living conditions between the rural and urban populations. This is seen mostly in housing conditions.

Drinking water supply is through standpipes in urban centres, but the well-to-do have connections at home. In villages, there are over one hundred drinking water points (boreholes and wells). Close to 70 of them produce water of approximate quality and dry up in the dry season, leading to the recrudescence of such water-borne diseases as amoeba-related dysentery, typhoid fever and parasitoses. The others (30) produce good quality water in sufficient quantity.

Electric power supply remains insufficient and does not meet the needs of the population. The SNE has installed thermal power plants in Makabana and Mossendjo Municipalities, outside which generators are needed to access electricity. No village in the project area is currently connected to the SNE network and no rural electrification project is in place for these villages. **Firewood** is the most widely available source of energy and most widely used by households. In rural areas, 87% use it as fuel for cooking, as against less than 26% in urban areas.

As regards **communication and ICT**, 57% of households have radio sets, the rate being higher in urban areas. In Dolisie, 56% of households have telephone sets (fixed or mobile), as against 51% for households in semi-urban areas and 47% for those in rural areas. Only 3% of rural households have television sets, as against 7% in semi-urban areas and 22% in the other municipalities (Dolisie).

With regard to **educational infrastructure**, Makabana sub-department has six (6) primary schools, four of them in urban areas and two in rural areas. In secondary education, there is one secondary grammar school but whose infrastructure is inadequate. Moutamba-Tsimba sub-department, for its part, has seven primary schools and two secondary grammar schools (CEG). Mossendjo municipality has seven primary schools unevenly distributed in the neighbourhoods, one nursery school, one Government high school, three colleges, one advanced forestry teacher training college and one trades school¹. It should be noted that none of these schools is secured by a fence, and none has latrines, much less drinking water boreholes. Further, the teachers lack housing facilities.

With regard to **health infrastructure**, there are two basic hospitals in Makabana and Mossendjo, and a few integrated health centres (IHCs) and dispensaries. Each hospital is equipped with a pharmacy, wards, a laboratory, a maternity, and obsolete means of locomotion. Village IHCs are in a very dilapidated state and lack medical materials and staff. Hence, the people constantly turn to the larger health centres. The degraded state of the road and non-permanent links between villages make it difficult to evacuate serious health cases and ensure effective staff presence in these IHCs. Coverage of health services is really inadequate.

6.3. Vulnerable Population

‘Vulnerable’ households in the area were among the PAPs; these are: (i) a group of widows, divorcees and single persons. In fact, 65% of widows/female divorcees are household heads (148); (ii) 25 persons aged 65 years or more; (iii) teenage mothers without income; (iv) jobless persons; (v) the physically/mentally disabled and chronic patients.

Emergency assistance is envisaged to help vulnerable persons who are generally hard hit by any change and lack financial resources to adapt and not find themselves in even more precarious situations. Economic and other support measures include relocation, transport and other benefits.

Vulnerable persons must be assisted by the Expropriation Commission. Depending on their needs and demands, such assistance can be in the form of: (i) assistance with compensation procedures (further explaining the process, accompanying them to the bank); (ii) post-payment assistance to ensure that compensation money is safe and secure and limit the risk of poor use or theft; (iii) assistance in reconstruction by providing a mason and/or materials or by taking charge of the reconstruction.

7. LEGAL FRAMEWORK, DISPUTES SETTLEMENT AND APPEAL MECHANISMS

7.1. Congolese Land Tenure System and Expropriation Regulations

In Congo, State land is sub-divided into public State land and private State land and land belonging to individuals. The land tenure system is regulated by Law No. 9-2004 of 26 March 2004 instituting the National Land Code.

Public property comprises all property that is destined for and assigned to the public’s direct use, after special development or is considered as public property as determined by the Law. There are also easements that are of public utility. Private property, on the other hand, comprises the buildings and real property rights of public entities which, by virtue of their nature and use, are not considered as appurtenances of public property.

Private property rights on land give rise to official recognition and corresponding land titles. The land laws guarantee recognition of pre-existing customary rights on land that are not contrary or incompatible with titles duly issued and registered. In case of conflict between customary rights and

¹ (Source: Niari Divisional Directorate of Education, January 2014).

the titles arising from the legal tenure system in force, the recognition of property rights on land situated in close proximity to a village must be discussed and accepted by the population and local authorities concerned.

Public entities are authorized to resort to expropriation for reason of public utility, pursuant to the law.

The Land Code is supplemented by Law No. 10-2004 of 26 March 2004 laying down general principles applicable to State property and land tenure in Congo. Essential instruments related to the land tenure system in Congo include: Law No. 11-2004 of 26 March 2004 defining the procedure for expropriation for reasons of public utility; Service Memo No. 027/MUCH/DGC of 22 August 2005 setting values of the per-square-metre price in case of expropriation for reasons of public utility, applied in Brazzaville and its environs on a radius up to 100km; and Decree No. 86/970 of 27 September 1986 defining the compensation owed in case of destruction of fruit trees and damage to crops.

7.2. Procedures of Law No. 11-2004.

Law No. 11- 2004 defining the procedure for expropriation for reasons of public utility provides that: *“Any bare, developed, built, cultivated or planted land, required for the conduct of public works or any other works undertaken in the public interest can be expropriated”*.

The expropriation procedure should preferably be amicable in its administrative phase. It extends into a judicial phase in case of appeal.

The **administrative** phase comprises the following stages:

- a) Preliminary investigation prior to the declaration of public utility, whose opening is announced by public notice in the Official Gazette: It is intended to inform the target public and consult it on the project that might give rise to expropriation. The conditions for organizing the preliminary investigation are laid down by Presidential Decree. Its duration is 40 days.
- b) Declaration of public utility: The instrument whereby the “public authority affirms that the implementation of an operation is of sufficiently general interest to justify recourse to expropriation procedure”. Public utility is declared by Decree or Ministerial Order which defines the validity period, the nature of the works, the area concerned, and the implementation period which must not exceed three (3) years, that can be extended by decree for two years. Otherwise, the expropriation procedure is null and void.
- c) Detailed survey plan: It helps the Government, through the cadastral survey services, to assess the current situation, determine together with the parties involved all parcels to be expropriated, and look for the owners, title holders and other interested parties within a period of two months. It is conducted by an investigation commission comprising: (i) the departmental authority concerned or his/her representative; (ii) the representative of the Ministry in charge of land tenure or his/her representative; (iii) members representing the following Ministerial departments (taxes; cadastral survey; town planning; agriculture; local authorities); representatives of the following companies: water supply, electricity supply, transport, and telecommunication.
- d) Transfer deed and requisition of total right of way. The parcels to be expropriated, as well as the real property rights attaching thereto are listed in a transfer deed consisting of one or more Decrees or Ministerial Orders. As from the date of registration in the land conservation registers, the value of the real property mentioned in the deed cannot

be modified. Similarly, the property cannot be alienated or burdened by substantive entitlement. The expropriation compensation mentioned in the instrument is based on the volume of properties on the date of the observation report. It is published in the Official Gazette and notified to the expropriated persons or their duly mandated representatives. A reconciliation commission is created by Decree to reconcile the parties' views. Also envisaged are reports of amicable transfer in case of agreement and, on the contrary, of refusal of amicable transfer. Property is transferred either by amicable agreement or by decision of the expropriation judge. In case of amicable agreement before the declaration of public utility, a sale contract is prepared in accordance with ordinary law conditions; however, this agreement is subject to appeal before a civil judge.

If an expropriation encounters difficulties due to the bad faith of the expropriated persons (refusal to leave the place, to cede title deeds, etc.), the reconciliation commission can be contacted before the matter is brought before the judicial authorities. The courts must be used as a last resort. Priority should be given to referral to local authorities (reconciliation commission) who do not have formal jurisdiction in the management and settlement of social conflicts.

Since some people may be reticent about expropriation measures or compensation amounts, a transparent mechanism is available to them for lodging complaints and managing conflicts.

7.3. Redress

Types of Complaints and Conflicts to be handled

Since several types of conflicts can occur during resettlement, a mechanism for handling complaints has been established. Possible problems are as follows:

- errors in identifying PAPs and assessing properties;
- disagreement on the boundaries of parcels ;
- conflict on the ownership of a property;
- disagreement on evaluation of a parcel or a property;
- succession, divorce and other family problems, resulting in conflicts between the next of kin and members of the same family, on a property or the share of a property allocated;
- disagreement on resettlement measures (location of resettlement site; type of housing proposed; characteristics of resettlement plot, etc.);
- conflict over ownership of a handicraft/commercial activity (ownership of funds and undertakings, hence conflict on how to share compensation money);
- disagreement on unit prices used.

The following procedure is proposed in case of conflicts/protests:

- submission of additional explanations (explaining in detail how compensation has been calculated and show that the same rules are applied to all PAPs) ;
- recourse to the arbitration of wise men and local authorities, using extra-judicial hierarchy-based mechanisms currently in force in sub-departmental municipalities

(quarter heads, reconciliation commission, mayor), as well as respectable persons in the community (religious and customary authorities).

To that end and in order to mitigate project impacts, the Project Owner will encourage the creation of reconciliation and monitoring committees in each municipality of the project area. The committees will comprise representatives of the Mayor or Sub-Prefect, persons likely to be displaced, one local NGO, and one vulnerable group.

Amicable Settlement Mechanism

The Monitoring and Mediation Committees (CSM), chaired by the Prefect concerned and comprising elected officials, representatives of the project owner and prime contractor, the villagers concerned and NGOs, will allow PAPs to express their disagreement. They will be responsible for assessing the admissibility of complaints and processing them in accordance with the conflict resolution procedure described above. Where rightful claimant are dissatisfied, they will be allowed to meet the Project Owner.

Administrative Arrangements and Recourse to the Courts

Recourse to the courts will be triggered where the amicable settlement fails. Although recourse to the courts is possible, it often takes a long time for the matter to be settled. This situation can generate significant costs for the plaintiff and require a complex mechanism (with experts and lawyers) which can often be beyond the plaintiff and end up being counter-productive. Lastly, the courts are not expected to hear cases on property held illegally.

The judicial phase will be handled by the expropriation judge of the High Court of the place where the property is located, who will pronounce the expropriation and determine the compensation. It comprises the following stages:

- a) The parties are convened within one week by the judge for information on the matter. The non-reconciliation report, signed by the judge, the registrar and interested parties, highlights the reasons for disagreement.
- b) The court hands down an expropriation decision in which the compensation amount is fixed based on the views of experts designated by both parties. The expropriation compensation depends on the volume of property on the date of the site assessment and observation report. No compensation can be received for modifications/improvements to the property after the observation report.
- c) If the expropriated persons are left unusable portion of property after expropriation, they can force the expropriating authority to acquire the remaining portion. In case of urgency, the plot investigation period is reduced to one month; the judge determines the provisional compensation amounts and authorizes the expropriating authority to take possession of the property against payment of the said compensation.

The decisions of the expropriation judge can be appealed against within one month from the date of judgment. However, the appeal shall not stay execution.

7.4. AfDB Policy and Degree of Compliance

Operational Safeguard OS2 – Involuntary Resettlement concerns Bank-financed projects that result in the involuntary resettlement of persons. It leads to: (i) relocation or loss of shelter by persons residing in the project area; (ii) loss of assets (particularly structures and property of cultural, spiritual and social importance) or restricted access to assets, particularly national parks and protected areas

or natural resources; (iii) loss of sources of income or livelihoods due to the project, whether the affected persons relocate or not.

The specific objectives of this operational safeguard are as follows:

- avoid involuntary displacement as much as possible or minimize its impact when inevitable, after all project design alternatives have been considered;
- ensure that displaced persons are really consulted and given a chance to participate in the planning and implementation of resettlement programmes;
- ensure that displaced persons receive substantial assistance to resettle under the project such that their living standards, income-generating capacity and livelihoods are better than the pre-project level;
- give borrowers clear guidelines on conditions to be fulfilled for involuntary resettlement in Bank operations so as to mitigate the negative impacts of displacement and resettlement, actively facilitate social development, and establish a viable economy and society;
- establish a mechanism to monitor the performance of involuntary resettlement programmes in Bank operations and find solutions to problems as they occur so as to avoid ill-prepared and poorly implemented resettlement plans.

The key points on which Bank policy requires going beyond national regulations are as follow:

- priority to compensation in kind over compensation in cash, particularly for land where the “land-for-land” replacement option should be prioritized, wherever possible;
- compensation at full replacement cost, where compensation in cash needs to be applied (fruit trees, crops, houses);
- assistance in restoring incomes and livelihoods (farming, fishing, stock-breeding, harvesting, handicrafts),
- compensation for commercial and handicraft activities,
- participation of affected persons in the entire resettlement process,
- support for vulnerable persons,
- socio-economic empowerment of women of the project area,
- monitoring and evaluation, with support measures (training, technical support, improved loans, etc.).

7.5. Out-of-Court Mechanism

Although all compensations are conducted exclusively in accordance with Congolese laws and regulations, the provisions of Bank guidelines allow for minimizing the number of complaints and appeals. In this case, the reconciliatory approach is applied since it preserves the rights of affected persons while ensuring sound management of the compensation budget. It should be noted that the Project Owner will foster the establishment of Conciliation and Monitoring Committees in each municipality which will bring together the representatives of the Mayor or Sub-Prefect, persons likely to be displaced, a local NGO, and a vulnerable group.

8 INSTITUTIONAL ARRANGEMENTS

The tasks listed below are likely to change depending on DGGT's commitments towards project affected persons. The tasks scheduling and implementing take into account the time frame for FRP implementation, which is the full responsibility of DGGT. Funds to finance plan-related expenses will come from the project budget, particularly the national counterpart contribution.

It will be subject to external review at project completion, and this will help to ascertain that people do not lose their livelihoods during the rehabilitation project. Monitoring reports will confirm that compensation have been adequately paid.

Table 2: Implementation Responsibilities and Institutional Arrangements

Responsibilities	Institutional Actors
Declaration of public utility Establishment of the parcels investigation commission Coordination/Supervision	Ministry of Land Reform
Resource mobilization for compensation owed for resettlement compensation	Project Owner DGGT
Evaluation of properties and affected persons, working closely with the Ministries involved in expropriation (SNDE, Agriculture, PW, Construction, Education, Health, Cadastral Survey)	Parcels Investigation Commission
Supervision of expropriation process and compensation of affected persons Submission of progress reports to Project Owner	Departmental Expropriations Committee (Public Treasury, representatives of DGGT, mayors of city councils, Niara Department and Departmental Council)
Establishment of Conciliation and Monitoring Commissions Information and dissemination of FRP	City Council Offices
Validation of identification, evaluation of property and compensation Registration of complaints and claims Processing following the conflicts resolution procedure Proximity monitoring in each district municipality	Conciliation and Monitoring Commissions
Socio-economic studies Phased, mid-term and final evaluation	Social Science Consultants

Pursuant to the legal provisions governing expropriation, the main implementation stages of the compensation and resettlement plan for project affected persons will be: (i) preliminary survey; (ii) declaration of public utility; (iii) parcel investigation and assessment of compensation value; (iv) compensation of affected persons and validation of the process by the Ministry of Land Tenure and Public Lands; (v) relocation of expropriated persons to their new site; (vi) requisition of the project right of way by the recruited contractor; (vii) monitoring of FRP implementation; and (viii) evaluation of FRP implementation.

9. ELIGIBILITY

9.1. Eligibility Criteria of Persons Affected by the Project

Eligible persons for involuntary displacement are those directly affected by a project (PAP). Displacement can be due to loss of a house or shelter, land, business, a building or structure or loss of access to income or resource for livelihood. Therefore, involuntary displacement does not exclusively mean relocation; it also means restriction of access to resources.

As per the requirements of Congolese law and AfDB policy, these are persons who: (i) have legal rights over land, including customary and traditional rights, (ii) do not have rights over land at the time of identification of owners, but possess recognized rights of usufruct or certain claims over such land; (iii) occupy the land though without legal entitlement.

Persons thus affected are entitled to compensation, that is, they must benefit from compensatory measures making it possible to mitigate the damage suffered. Also eligible for compensations are the formally recognized rightful claimants of persons having died in the interval of time between the identification of properties and distribution of compensations.

Some land owners or occupants may not have been identified during the census of project affected persons due to prolonged absence. In such cases, investigations will be conducted closely with the local authorities to identify and contact them so as to assess their losses and compensate them.

Regarding the loss of land, the policy specifies that persons falling in the first two categories (i) and (ii) above shall receive compensation for land lost as well as other policy-based aid packages. Persons belonging to category (iii) must receive, in compensation, resettlement assistance alongside other aid packages, provided they occupied the land before the date determined by the compensation procedures. This means that persons who settle on the site after that date are not entitled to compensation.

9.2. Eligibility Date

The eligibility cut-off date corresponds to the end of the period of administrative investigation following the census of affected persons, and their built-on, agricultural or commercial assets in the project area. Beyond that date, occupancy and/or exploitation of the resource targeted by the project can no longer be subject to compensation. The eligibility cut-off date determined by Congolese legislation is the closing date of the administrative investigation, or M3 (cf. schedule presented in Section 11 of this document).

10. ASSESSMENT OF COMPENSATION FOR LOSSES

10.1 Assessment of Unit Costs

Plot studies conducted by DGGT are complete for the 2 lots (one per council). Assessments have been made, and DPUs are being published.

Estimates of compensation were determined based on:

- Service Memo No. 027/MUCH/DGC of 22 August 2005 determining per-square-metre prices in case expropriation for reasons of public utility, applicable to Brazzaville and surrounding areas up to 100km ;
- Decree No. 86/970 of 27 September 1986 determining compensations in case of destruction of fruit trees and damage to crops;
- Standard construction values reflecting the costs of building materials and surveys of the Niari Departmental Directorate of Construction.

For purposes of harmonization, the values retained are those used by the parcels investigation commission set up by the Ministry of Land Tenure and Public Land by Service Memo No. 920/MAFDP-CAB of 8 February 2013 for the Dolisie-Doussala- Ndendé Road Project, phase 1 (PAST). Built and unbuilt assets, fruit trees and businesses affected by the Mila-Mila-Makabana-Moutamba-Mossendjo road project are broken down as follows:

- 1) The six types of **built-on property** assigned assessment scales proposed by CEPR-BAD fall into the following six classes:
 - Class1 : burnt bricks with corrugated metal roofing sheets: CFAF 40,000/m²

- | | | |
|---|-------------------------------|-------------|
| - | Small enterprise and business | CFAF 28,700 |
| - | Services | CFAF 53,000 |

5) Compensation for displacing graves and sepulchers.

Since no official scale exists for calculating compensations in case of tomb displacement, a lump sum reflecting its value was considered and meetings organized in that connection with traditional authorities of the villages concerned. Costs incurred for displacement, family meetings and ceremony were factored in as well as sundry religious rites necessary for exhuming and reburial. An evaluation of associated sacrifices, rites and prayers was conducted in several villages with the notables. Displacement and reconstruction will be undertaken by the hygiene services.

The technical services of Congo estimate the cost of ritual sacrifices at CFAF two hundred and fifty thousand (250,000) per grave.

6) Assistance to vulnerable persons

All assistance and economic support measures comprise relocation and transport allowances for the 148 vulnerable persons identified. This assistance will be charged to the “contingencies” budget item. To ensure that only really vulnerable persons receive emergency assistance, the FRP implementation committee (CFRP) will be requested to validate each aid application submitted. Landowners belonging to a “vulnerable persons” category should receive assistance at the time of expropriation. The expropriation commission must particularly assist widows who are household heads.

7) Related Improvement Infrastructure

Damage generated by works will be mitigated at collective level by: (i) the construction of 11 markets comprising two 2,700 m² pavilions along the project’s right of way and in large towns served by feeder roads; (ii) the construction of 24 stores comprising 2 or 3 model shops and stands for vendors with compacted aisles in between the stands; (iii) the construction of 35 latrine blocks; and (iv) the rehabilitation of administrative buildings.

10.2 Assessment of Compensation

Bank policy regarding improvement of living conditions of PAPs will be implemented. For physical displacements, the improvement of living conditions is considered beyond the compensation as part of support measures agreed with PAPs and their respective communities. The compensation amount for loss of land, buildings, trees and graves is summarized in Table 4 below.

Table 4: Summary of Compensations

VILLAGES	Number of PAPs	Vulnerable Persons	Land		Houses		Fruit Trees		Graves		Total
			Area in m ²	Cost [CFAF]	No.	Cost [CFAF]	Number	Cost [CFAF]	Number	Cost [CFAF]	Cost [CFAF]
MAKABANA	38	2	10,177	5,088,700	6	2,109,790	67	3,161,810	30	7,500,000	17,860,300
MINGOUENGOLE	71	20	20,014	5,003,500	64	67,580,305	112	7,034,489	-	-	79,618,294
MATALILA I	5	1	1,198	299,500	-	-	35	2,249,975	74	18,500,000	21,049,475
MATALILA II	32	8	7,284	1,821,013	23	9,103,000	69	3,981,703	150	37,500,000	52,405,716
BOUBIANGA I	18	4	10,344	2,586,075	29	15,983,890	101	2,968,785	4	1,000,000	22,538,750
BOUBIANGA II	43	7	22,915	5,728,700	43	21,899,390	85	4,478,067	100	25,000,000	57,106,157
PK 106	24	3	7,973	1,993,275	9	13,044,300	76	2,877,813	100	25,000,000	42,915,388
PK 109	67	15	16,267	4,066,775	10	41,388,580	102	4,415,089	20	5,000,000	54,870,444
MAYITOUA	35	13	9,744	2,490,000	49	26,750,015	117	3,024,956	-	-	32,264,971
MABAFI	41	7	19,431	4,857,750	15	7,998,700	314	13,360,936	50	12,500,000	38,717,386
Total 10 villages lot1	374	80	125,348	33,935,288	248	205,857,970	1,078	47,553,623	528	132,000,000	419,346,881
TITI	4	1	2,349	587,250	5	3,177,400	28	1,319,586	-	-	5,084,236
NGALA	5	2	1,380	345,000	2	1,026,000	391	1,616,080	-	-	2,987,080
BONGOTO	2		280	70,000	1	306,460	16	788,015	-	-	1,164,475
LOBOMBO	5		1,776	444,000	7	1,918,840	57	1,216,532	-	-	3,579,372
KANGA	19	4	4,489	1,122,250	30	9,906,110	262	3,899,139	-	-	14,927,499
ITSOTSO	60	19	17,274	4,318,463	52	34,414,695	297	6,430,656	-	-	45,163,814
TSIMBA	66	15	12,323	6,161,350	194	84,935,350	185	3,743,671	22	5,500,000	100,340,371
MASSANGA	76	27	33,819	8,454,650	89	37,381,030	128	3,671,652	50	12,500,000	62,007,332
Total 8 villages lot 2	237	68	73,689	21,502,963	380	173,065,885	1,364	22,685,331	72	18,000,000	235,254,179
TOTAL	611	148	199,037	55,438,250	628	378,923,855	2,442	70,238,954	600	150,000,000	654,601,059

a) Compensation for loss of income for traders.

A total of 31 commercial activities will be delocalized to another place. Their managers will receive compensation, based on the minimum average monthly income (income levels in the Republic of Congo) estimated at CFAF 120,800 at a rate of CFAF 30,200 per month for the trade branch. This is equivalent to four (4) months, given that this is the time needed to secure the same level of activity prior to the project.

Provisions of CFAF 3,744,800 will be made for the 31 eligible traders. This amount can be revised downward if the managers of activities present justification of real incomes.

The total amount determined is around CFAF 658,346,000.

10.3 Payment Methods

In Congo, compensation is paid in compliance with the law outlining terms and conditions for compensation. Although in principle it is paid in cash, the expropriating entity can substitute it for compensation in kind of the same value. PAPs as a whole have accepted compensation in cash. The decree fixing compensation owed to victims of expropriation also specifies conditions for authorizing the corresponding allocations and effective payment to the victims mentioned by the expropriation decree.

The substitution of compensation-in-cash for compensation-in-land of same nature is governed by combined provisions: (i) the land proposed for compensation must be submitted beforehand to the Minister in charge of Lands to determine its market value; (ii) it must preferably be situated in the same municipality as the land which is the subject of expropriation; (iii) land allocated as compensation must have the same value as the monetary compensation. In case of a difference, a balance is paid to or required from the beneficiary of the expropriation.

11 IDENTIFICATION OF RESETTLEMENT SITES

The resettlement sites that will receive people currently residing on the road's right of way are all found along the rehabilitated road. Most of the houses will be rebuilt away from the cadastral limits of the rehabilitated road without major prejudice. The resettlement sites and land are not occupied. They are managed by traditional authorities, working closely with the local services.

Access to the new sites will be facilitated by the villagers' usufruct and recognized customary rights to resettle and rebuild so long as the host site remains adjacent to that previously occupied. There is no private, strictly individual, management in the traditional land management methods, and particularly land for building.

Neither landowners nor farmers will lose their residential houses; they will remain where they currently reside, with their lifestyles and economic and social activities intact. Consequently, the issue of resettlement sites does not arise since the affected persons will be their own hosts.

12 HOUSING, INFRASTRUCTURE AND SOCIAL SERVICES

No resettlement site is planned as such. In the project's right of way, one (1) primary school, two (2) water boreholes, three (3) markets, five (5) churches and one (1) integrated health centre will be impacted. The project will reconstruct these social structures, as well as drinking water, energy distribution or ICT networks will be included in a separate item of the DQE.

In addition and as part of social improvement measures in localities served by the rehabilitated road, the project will finance: the development of 390 km of feeder roads; the construction of women's multi-purpose centres; the sinking of 30 drinking water boreholes; the supply of agricultural equipment to women; the rehabilitation of 6 health-centres; and the construction of 4 warehouses.

13 ENVIRONMENTAL PROTECTION

In compliance with the laws in force in Congo, an Environmental and Social Impact Assessment (ESIA), accompanied by an Environmental and Social Management Plan (ESMP), has been prepared and will be implemented to identify any risks to the natural and human environment.

14 IMPLEMENTATION SCHEDULE

The indicative FRP implementation schedule, with target dates, is proposed in the table below. This schedule, which covers the entire project between Milamila and Mossendjo, indicates the activities to be undertaken and the dates corresponding to the works implementation agenda.

Month *Mo* is considered as the start-up date of FRP activities and *MT0* as the period of start-up of works (supposing that structural works can start on 1 December 2016).

Table 5: Implementation Schedule of the Mila-Mila-Mossendjo Project FRP

Heading No.	Activities	Duration	Indicative Implementation Period
	Survey prior to Declaration of Public Utility	1.5 month	Non-project
	D.P.U.	Not determined	Non-project
	Project implementation		M ₀
1	Establishment of national parcels investigation and good evaluation commission	1 month	M ₁ = M ₀ + 1 month
2	Land survey by Cadastral survey services	2 months	M ₂ = M ₀ + 2 months
3	Information and consultation of PAPs through an NGO	1 month	M ₃ = M ₂ + 1 month
4	Period for claims from affected people	1.5 month	M ₄ = M ₃ + 1.5 month
5	Negotiation and signing of individual memorandum of understanding with each PAP	1 month	M ₅ = M ₄ + 1 month
6	Payment by project of compensation of affected property and allocation of new residential plots on the new resettlement site	2 months	M ₆ = M ₅ + 2 months
7	Freeing of right of way	1 month	M ₇ = M ₅ + 2 months + 1 month
8	Period of house reconstruction and settlement	6 months before works start-up	M ₈ = M _{T0} - 6mois
9	Start-up of project works	M _{T0}	M _{T0} = M ₆
10	Monitoring of FRP implementation	Ongoing	M ₉ = M ₇ + 36 months
11	Evaluation of the operation	1 month	M ₁₀ = M _{T0} + 6 months after works start-up

15. PLAN BUDGET

The resources needed to implement this plan corresponding to phase 2 of PAST are estimated for the entire Mila-Mila-Mossendjo Road Development Project (lot 1 and 2).

The resources stand at *Nine hundred and fifty million four hundred and sixty-nine thousand eight hundred and twenty-four CFA francs (CFAF 950,469,824)* and represent close to 0.8% of the cost of works (CFAF 123.37 billion).

It will be financed by the Congolese Government's own resources. The final cost of resettlement and the resettlement plan budget will be adopted after the preliminary survey is conducted and the property affected by the road's final itinerary is assessed.

Table 6: FRP Budget

N°	Heading	Amount (CFAF)
1	Compensation for built-on properties	378,923,855
2	Compensation for unbuilt properties	55,438,250
	Compensation for fruit trees	70,238,954
4	Cost of displacement of graves	150,000,000
5	Compensation to traders for loss of income	3,774,800
6	Operating costs of the compensation commission and training of its members	30,000,000
7	Recruitment of an NGO for awareness campaigns	25,000,000
8	Recruitment of a Consultant for FRP monitoring-evaluation	35,000,000
9	Assistance to vulnerable persons	12,000,000
10		<i>Sub/total</i> 760,375,859
11	Margin, omissions and contingencies (25% of 10)	190,093,965
12	Total (10+11)	950,469,824

The Congolese State is fully responsible for FRP implementation. Nevertheless, for people affected by the project to be compensated within a short time, the FRP financial mechanism needs to be toned down as much as possible and the funds secured in a blocked account.

The compensation paid must be such that the population can have enough resources to maintain their standard of living; budgetary and regulatory measures will be taken to that end. All compensations will be paid before works start-up.

16. MONITORING AND EVALUATION

16.1 Monitoring-Evaluation Objectives and Content

Monitoring and evaluation are key components of resettlement actions, which target the following objectives:

- i. Monitoring of specific situations and difficulties arising during implementation and ensuring implementation compliance with the goals and methods defined in the AfDB Involuntary Resettlement Policy, in particular OS2, and in Congolese regulations. It will be conducted in a participatory manner by all actors, the Socio-Economist of DGGT, municipal authorities and project supervisors, the population and affected communities.
- ii. Assessment of the medium and long-term impacts on affected households, their livelihoods, incomes, economic conditions, the environment, local capacity, housing, appearance of land speculation, state of the environment and hygiene, etc.
- iii. Monitoring of vulnerable persons;
- iv. Monitoring of technical aspects of construction or land development works, acceptance of technical components of resettlement actions;
- v. Monitoring of the processing of complaints and conflicts

As used in this document, monitoring aims to correct implementation methods in real time during project execution, while evaluation seeks to verify whether general policy objectives have been respected and to draw lessons from the operation in order to modify strategies and implementation within a more long-term perspective. Monitoring will be internal, and evaluation external.

Monitoring of the project's resettlement policy will be an integral part of overall project monitoring. It will be conducted in a participatory manner by all the actors: Socio-economist of DGGT, municipal authorities, project supervisor, and affected population and communities. The project's socio-economic impacts will be monitored throughout its duration.

16.2 Monitoring Indicators

The following overall indicators will be used:

- Number of households and persons affected by project activities;
- Number of people physically expropriated by project works;
- Number of people compensated by the project ;
- Total amount of compensations paid.

Furthermore, socio-economic indicators will be designed and monitored for a PAP sample, for example the following:

- Average monetary income and total average income (with development of self-consumption);
- Average distribution of the household expenses of expropriated owners;
- Number of complete jobless people;

- Number of school-going children.

The initial value of these indicators can be established from the socio-economic surveys included in the census update by the expropriation commission. Subsequently, it could be useful to update these surveys once every year, for example, using a sample of about 15 to 20% PAPs.

Vulnerable persons will be the target of special social monitoring. An annual monitoring report will be prepared by the Project Implementation Unit (CERP-BAD). Internal monitoring reports, prepared by the CERD-BAD services of DGGT, will help to present the progress of the operation, and to see whether compensations have been paid as planned in the FRP and used wisely to improve the living standards of those concerned.

16.3 FRP Evaluation

An external evaluation of FRP implementation will be conducted for all PAPs. DGGT will entrust the programme evaluation to an independent audit firm. This external audit will consist in checking whether FRP implementation was consistent with the stated objectives and the provisions of Congolese legislation and Bank guidelines. Specifically, monitoring-evaluation must make it possible to ensure that: (i) compensations defined beforehand have been paid; (ii) vulnerable groups are properly catered for; (iii) all complaints have been considered and the deliberations are known; (iv) the FRP implementation schedule is complied with; and (v) resettlement does not create negative impacts or otherwise, such impacts are under control. It involves especially ensuring that the living standard of PAPs does not drop. Monitoring-evaluation will also consist in assessing various categories of project affected persons' level of satisfaction with the compensation methods. For its part, impact assessment will consist in conducting a comparative analysis based on a baseline case study at project start-up, at mid-term and at project completion. The terms of reference of the external evaluation of FRP implementation will comprise in particular:

- a) organizing surveys by polling a cross-section of different categories of the affected population, indicating the number of dispute cases, the number of reconstitution of PAP activities and by these means, highlighting the degree of satisfaction and possible grievances;
- b) on these grounds and considering the general institutional and technical context of the operation, assessing the following points: (i) organizational arrangements put in place ; (ii) adequacy of human and material resources with the set objectives ; (iii) adequacy of the communication-consultation and internal monitoring arrangement with the socio-economic conditions of affected persons ; (iv) evaluation of implementation of commitments taken; (v) adequacy of planned budgets and analysis of gaps; (vi) evaluation of the fairness of compensations, pending litigation and the risk incurred by the project due to these litigations; and (vii) evaluation of the level of reconstitution and pursuit of PAP activities.

