



Technical Assistance Consultant's Report

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TA 7566-REG: Strengthening and Use of Country Safeguard Systems

Subproject: Institutional Strengthening and
Capacity Development for the Ministry of
Construction (Myanmar)

NEEDS ASSESSMENT—FINAL REPORT

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Asian Development Bank

Government of Myanmar

**Ministry of Construction
Public Works Department**

Project Number: 44140

TA-7566 REG:

**Strengthening and Use of Country Safeguards
Systems**

Subproject :

**MYA- Institutional Strengthening and Capacity Development
for the Ministry of Construction**

Needs Assessment

Final Report

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Contents

List of Acronyms and Abbreviations	i
Executive Summary	2
1. Introduction.....	1
1.1 Scope of TA 7566 Subproject	2
1.2 Structure of the Report	3
1.3 Methodology.....	3
2 Ministry of Construction	5
2.1 Overview of MOC.....	5
2.2 Organizational Set-up of PWD	6
2.2.1 Public Works Department at the Central Level	6
2.2.2 State/Regional Level	8
2.2.3 District/Township Level	9
2.2.4 PMUs.....	9
2.3 Role and Responsibilities of Key Departments and Divisions in social Safeguards	9
2.3.1 Planning Sections	10
2.3.2 Survey Sections	11
2.3.3 District/Township Engineering Sections	12
2.4 Coordination within and other Departments/institutions	12
2.4.1 Coordination within MOC	12
2.4.2 Coordination between MOC and Local and district General Administration	13
3 Assessment of Capacity of MOC Staff.....	15
3.1 PWD Staff and Educational Background	15
3.2 Experience and Capacity of PWD staff in Social Safeguards.....	15
3.3 Concluding Remarks.....	17
4 Summary of Key Issues and Way Forward.....	19
5 Recommendation on Capacity Building in MOC.....	21
5.1 Establishing Legal Framework.....	21
5.2 Institutional Strengthening	21
5.2.1 Environment and Social Safeguards Sub-Division.....	21
5.2.2 Strengthen Professional Staff	21
5.3 Capacity Building.....	23
5.4 Other Action.....	23
6 Proposed Training Plan	25

6.1 Key Focus Areas for Training and Training Modules..... 25

6.2 Training Schedule..... 25

Appendix A: Training Workshop program

List of Acronyms and Abbreviations

ADB	Asian Development Bank
CCVfV	Central Committee for Management of Vacant, Fallow and Virgin Lands
CHRO	Chin Human Rights Organization
CSR	Corporate Social Responsibility
CSS	Country Safeguard System
CIDA	Canadian International Development Agency
CITIC	China International Trust and Investment Corporation
DRD	Department of Rural Development
DFR	Draft Final Report
DMC	Developing Member Country
DPW	Department of Public Works
DOHSAHD	Department of Human Settlements and Housing Development
EA	Executing Agency
FAB	Farmland Administration Board
GAD	General Administration Department
GoM	GoM
HLP	House, Land and Property
IP	Indigenous People
IPDF	Indigenous Peoples Development Framework
IPDP	Indigenous Peoples Development Plan
JICA	Japan International Cooperation Agency
MAI	Ministry of Agriculture and Irrigation
MOC	Ministry of Construction
MOHA	Ministry of Home Affairs
MOSWRAR	Ministry of Social Welfare, Relief and Resettlement
MOECAF	Ministry of Environmental Conservation and Forestry
PPTA	Project Preparatory Technical Assistance
REGF	Resettlement and Ethnic Groups Framework
RF	Resettlement Framework
SLORC	State Law and Order Restoration Council
SLRD	Settlement and Land Records Department
SIA	Social Impact Assessment
SPS 2009	Asian Development Bank <i>Safeguard Policy Statement 2009</i>
SSG	Social Safeguards
TA	Technical Assistance
ToR	Terms of Reference
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
VFV	Vacant, Fallow and Virgin Land Management Law
WB	World Bank

Executive Summary

Myanmar is the largest country in mainland Southeast Asia and strategically located with its borders shared with peoples Republic of China (PRC), India, Bangladesh, the Lao People's Democratic Republic (Lao PDR), and Thailand. It also has a 2,800-kilometer (km) coastline along the eastern side of the Bay of Bengal. In addition to its strategic location, Myanmar has extensive energy and other natural resources. Since 2008, Myanmar has opened its economy to international investment and is undertaking significant reforms with an aim to build an inclusive society where its people will become participants of its economic development and on-going integration into the regional and global economies. As part of that process, the Asian Development Bank (ADB) has re-engaged with Myanmar and has commenced undertaking a number of projects with significant investment in the country.

Myanmar has a relatively modern environmental policy but lacks a social safeguards policy to address emerging social issues associated with development agenda that the country has set for future. As one of the initiatives to build capacity within the country, the ADB in July 2012 approved the TA 7566-REG MYANMAR: Strengthening and Use of Country Safeguard System (CSS). This ongoing Technical Assistance has four main components to build safeguard understanding and awareness within the GoM. The four components included:

- (a) a National Seminar and Training Workshop;
- (b) coordination and cooperation with other development partners including International financial institutions and bilateral agencies,
- (c) a study tour for GoM and civil society representatives;
- (d) a training and capacity needs assessment and a draft road map for the Government of Myanmar for establishing its own country safeguard system.

The current subproject (TA 7566-Institutional Strengthening and Capacity Development for the Ministry of Construction) is aimed to build up on the recommendations of the TA 7566.

Efforts to address concerns on social safeguards are at this stage limited to action planning particularly on capacity building for social safeguards for ministry of Construction (PW). Needs Assessment therefore has been carried out to identify (i) how the social safeguard issues have been dealt with by MOC staff in project planning and implementation; and (ii) what are the needs of MOC staff and relevant agencies for capacity building in social safeguard planning and implementation for the government funded projects and as well the projects funded by international development and funding agencies.

In general MOC staff at almost all levels has very little understanding of the scope, objectives and principles of socials safeguards and planning and implementation requirements of multilateral funding agencies in development projects.

Together with improving capacity of the staff on dealing with social safeguards issues in project planning and implementation, MOC is recommended to establish a safeguards sections (including social safeguards and environment) in the central level so as the section could coordinate with various levels of MOC, relevant agencies and local general administration authorities to plan and implement the safeguards properly for MOC's projects.

The recommendations for capacity building under the TA7566 include:

- a. A social safeguards introductory workshop to increase awareness for senior and mid-management level staff in MOC. This workshop was conducted in July 2014.; and

- b. A more comprehensive training workshop for the operational staff of MOC (PW) at the headquarter, townships, district and PMU level. The workshop will also include some staff of the relevant ministries.

1. Introduction

Myanmar is the second largest country in Southeast Asia and strategically located with its borders sharing with the Republic of China (PRC), India, Bangladesh, Lao Peoples' Democratic Republic (Lao PDR), and Thailand. It has a total land area of about 676,590 square kilometers and a population of about 61.65 million in 2013¹. It has 2,800 km eastern coastline along the Bay of Bengal. Myanmar's gross domestic product (GDP) reached an estimate of \$55.320 billion in 2011 with an average annual growth rate of 10% from 2000 to 2007. In addition to its strategic location, Myanmar is endowed with vast energy and other natural resources. Its per capita gross domestic product rose to about \$1144 in 2011.² Its economy has been gradually shifting from an agriculture-based economy towards a more service- and industry-oriented economy. The rapid growth of Myanmar's GDP is largely contributed by its energy exports. Myanmar is one of the five energy exporters in Southeast Asia, mainly exporting crude oil, natural gas, and coal. However, despite its rich natural resources and continuing inflow of investments, Myanmar still remains one of the least developed economies of the world.

Myanmar is undergoing significant transition since its elections in 2008. Since 2008 Myanmar has opened its economy to international investment, both in the private and public sector. In 2008, it prepared a new Constitution and has since been developing other laws. Myanmar has a relatively modern environmental policy but lacks a social safeguards policy to address emerging social issues associated with development agenda that the country has set for future. To ensure that the Government of Myanmar (GoM) can cope with the rapid expansion while protecting its people and environment, there is a need for it to develop a country safeguards system (CSS) that meets the needs of Myanmar as well as the international community. A country's policies, laws, regulations and practices aiming at avoiding, minimizing or mitigating /compensating potential harmful environment and social impacts of development activities and established institutions in charge of implementation taken together are referred to as Country Safeguards Systems (CSS).

In 2012, the Asian Development Bank resumed operations in Myanmar, with an assistance package for sustainable social and economic development and to build a foundation for further reforms to alleviate poverty and foster growth. As of January 2014, the Asian Development Bank had approved 28 projects in various sectors including the agriculture, energy, finance, health, industry and trade, transport and water supply sectors. The World Bank and JICA have similarly approved funds for a number of development projects. In parallel with the investment in development projects, the ADB in July 2012 approved the TA 7566-REG MYANMAR: Strengthening and Use of Country Safeguard System (CSS) with an aim to build capacity within the country to address emerging social and environment issues associated with development projects. The Technical Assistance had four main components to build safeguard understanding and awareness within the GoM. The four components included:

- a. national Seminar and Training Workshop;
- b. coordination and cooperation with other development partners including International financial institutions and bilateral agencies;
- c. a study tour for GoM and civil society representatives; and

¹ Basic Statistics, 2014, ADB, Economics and Research Department, April 2014.

² United Nations Data, available at <http://data.un.org/CountryProfile.aspx?crName=MYANMAR>

- d. a training and capacity needs assessment and a draft road map for the Government of Myanmar for establishing its own country safeguard system.

The Study under the TA identified, among others, an urgent need to develop laws and policies in relation to social safeguards and to assist Myanmar with training to raise institutional capacity in selected key ministries. The current subproject (TA 7566-Institutional Strengthening and Capacity Development for the Ministry of Construction) is aimed to build up on the recommendations of the TA7566.

The transport was identified as the key sector for ADB assistance in the Interim Country Partnership Strategy: Myanmar, 2012–2014 and training and capacity building program was considered as one of the potential area of support. Therefore, proposed subproject will focus on capacity development of MOC/PWD, district offices, and local authorities. The implementing agency for this subproject is the Ministry of Construction and its Public Works Department (MOC/PWD) since it is responsible for all primary and secondary road networks.

1.1 Scope of TA 7566 Subproject

The scope of the Subproject TA7566: Institutional Strengthening and Capacity Development for the Ministry of Construction includes a review of the legal framework in Myanmar on social and environment safeguards and needs assessment of MOC (Department of Public works) for capacity development.

The proposed TA includes following three main outputs:

Output 1. Review of organization set-up of the MOC/PWD at the head quarter and district offices and existing capacity to address environment and social safeguard issues in their operation and a Needs Assessment for capacity development. Results of the assessment will lead to the proposed action plan to strengthen capacity.

Output 2. Review of existing legal and regulatory framework for environment and social safeguards and a comparative analysis with that of ADB's SPS (2009), leading to equivalence assessment and formulation of an action plan to address the gaps.

Output 3. Based on the output 1 & 2, development of planning and implementation guidelines (Manual) on social and environment safeguards and training of MOC/PWD staff. The guidelines and manuals will be based on the ongoing TA/loan projects regardless of sector or source of financing (Government, ADB, JICA), and improved/revised as necessary based on feedback from participants and to ensure a common approach in safeguards planning and implementation. The guidelines and manuals will be submitted to ADB and MOC/PWD for review and approval. Other stakeholders (donors, ministries, civil society organizations) will also be consulted during the process of drafting and finalizing the guidelines and manuals.

This report, as output 1 of this TA, presents the review of organizational set up of Department of Public Works (PW) at the head office and district/township levels, and existing capacity, in terms of educational background and experience, of the staff directly responsible for overseeing planning and design of roads and bridges and for assessment of social impacts. The report also describes the steps taken by the PW staff in coordinating their field work with other government institutions and the procedures followed for assessment of impacts and determining compensation and support for the affected households. Based on the review an assessment of the need for institutional support and capacity building is presented together with a proposed action plan for capacity building.

1.2 Structure of the Report

This report is prepared as Output 1 of the TA and presents the findings of the review of organizational set-up of MOC/PWD, its existing capacity to address social safeguards issues in its operation and needs assessment for capacity development. The contents of the report are organized as below:

1. Chapter One includes general introduction and background of the TA 7566 including expected outputs from the study;
2. Chapter Two provides a description of organizational set-up of the MOC and the central, division/state & district/township levels with roles and responsibilities of various sections in addressing social safeguards issues in their operations;.
3. Chapter Three includes an assessment of existing staffing, educational background and capacity of MOC/PWD staff in addressing social safeguards issues
4. Chapter Four includes a summary of key issues;
5. Chapter Five includes recommendation for capacity building in MOC/PWD highlighting the focus areas for capacity building;
6. Chapter Six includes training plan and schedule for capacity building in social safeguards.

1.3 Methodology

Variety of data collection methods were used for the preparation of this report. These include:

- a. Formal and informal discussions, meetings and consultations with MOC management and staff;
- b. Desktop review of available information on MOC/PWD organization;
- c. Informal and unstructured interviews and discussions with district and township level engineers and staff working on various projects;
- d. Information gathered from feedback obtained and discussions during workshops organized at the MOC;
- e. Site visit to ADB funded road rehabilitation project and on-site discussions with PWD staff assigned to the project; and
- f. Formal meeting with the township level general administration officials.

Specific activities undertaken for assessment of existing capacity within MOC/PWD involved the following:

- a. Reviewed the roles, responsibilities, and resources of the MOC for involuntary resettlement and indigenous peoples safeguards issues and assess its capacity in fulfilling its role;
- b. Liaise with the MOC management, introduced the TA, and identified their immediate needs related to capacity development for social safeguards;
- c. Based on consultations with the MOC management, initiated the conceptualization and planned orientation workshop on: i) Introduction to Social Safeguards; ii) Review of

Legal Framework, Gap Analysis & Action Plan to address the Gap; and iii) Review of Organizational Set-up, Needs Assessment and Action Plan for Capacity Building.

- d. Prepared necessary materials including power-point presentations for various workshops; and
- e. Prepared required reports for the TA.

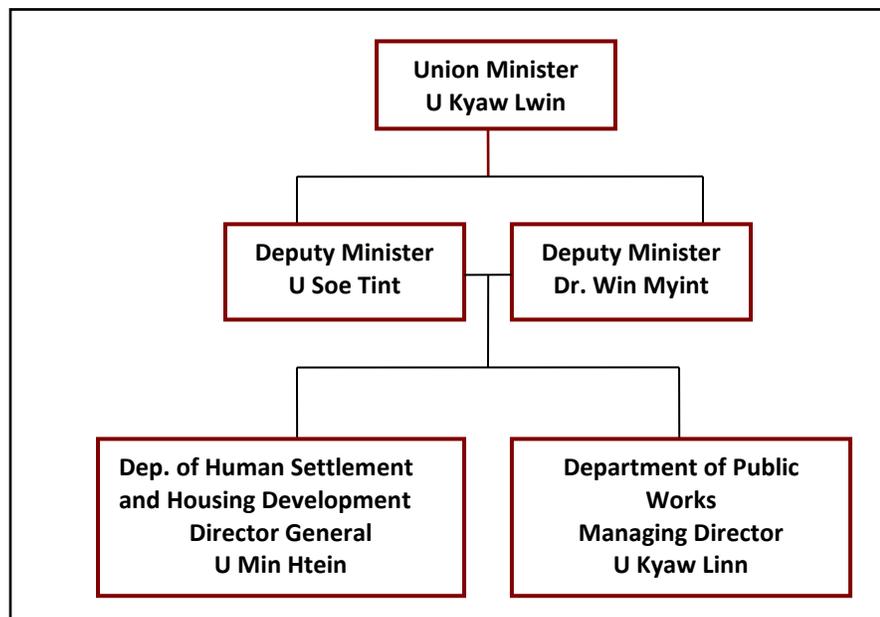
2 Ministry of Construction

The implementing agency for this subproject is the Ministry of Construction and its Public Works Department (MOC/PWD) since it is responsible for all primary and secondary road networks. The Ministry of Construction has the responsibility for construction of highways, bridges, airports and other infrastructure including housing and residential development. MOC's tasks also include preparation of policies for development of roads, repair and maintenance of roads, arranging oversees joint ventures with other agencies for construction and maintenance of roads; undertaking land acquisition and clearance for construction roads and bridges and undertaking research related to construction and maintenance of roads.

2.1 Overview of MOC

Ministry of Construction has two departments: Human Settlement and Housing Development Department and Public Works Department. Figure 1 presents an overview of the Ministry at the national level.

Figure 2.1: MOC Organization



Department of Human Settlements and Housing Development

The key function of the Department of Human Settlement and Housing Development is upgrading the living standard of the people by promoting the urban and regional development by establishing industrial zones at new satellite towns. The department is responsible for urban planning, residential development and, in coordination with the Ministry of Welfare, preparation of plans for resettlement of communities affected by disasters and emergency situations. Town plans are prepared by the staff of the DHSHD but must be approved by the State Assembly and Cabinet, and then at the central level by the MOC, the Minister of Home Affairs and the Minister of Agriculture in the Cabinet, as the land use supposes some change of use of some areas designated as agricultural land.

The department of Human Settlement and Housing Development is supported by a total of 13,869 staffs at all levels.

Functions of the Public Works Department (PWD)

The key function of the Public Works Department is the construction and maintenance of roads and bridges and upgrading works of the same. Additionally, PWD also takes up responsibility of: (i) construction and maintenance of the budgeted works of airfields assigned by the Ministry of Transport; and (ii) construction and maintenance of the budgeted works of public housing, factories, offices, hospitals, colleges, schools; administrative buildings, etc. assigned by other Ministries.

2.2 Organizational Set-up of PWD

The PWD oversees and provides the resources for infrastructure projects that fall within the scope of its responsibility. PWD has offices at the national level, in Nay Pyi Taw, and at the state/regional and district & township levels. PWD also sets-up Project Management Units (PMUs) for specific projects, as necessary. The Figure 2.2 below presents organizational set-up of Public Works Department in different levels – central, state/region and district/township.

Overall organization set-up of the MOC (PWD) at national level and of the Department of Public Works at different levels is described in the following sections.

2.2.1 Public Works Department at the Central Level

Public works is managed by a management board presided over by a Managing Director in collaboration with four (4) Deputy Managing Directors – each with an oversight responsibility of four divisions: Administrative, Planning, Works, and Repair and Maintenance. There are eight (8) chief engineers and thirteen (13) deputy chief engineers to operate different divisions at the head quarter. There are four (4) supporting divisions, under the Administrative Division, headed by four General Managers who are non-technical senior administrative officers.

The Administration Division consists of four sub-divisions: General Administration, Finance, trade and Production; each headed by a General Manager.

The Planning division consists of five sub-divisions: Architecture; Water and Sanitary; Electrical; Mechanical; and Planning, Design Quality Supervision and Research, Stores. Each sub-division is led by a Deputy Chief Engineer.

The Repair and Maintenance division has no sub-division in the central level. It directs the repair and maintenance work through State/Regional Offices. It is headed by a Chief Engineer.

The Work division is the biggest division in terms of staffing. It has four sub-divisions: Buildings; Airfields; Roads, and Bridges. Each sub-division is headed by a chief engineer. Additionally, each sub-division consists of a Special Unit to manage specific projects in their own specific areas. These special units are headed by a chief engineer. Thus the Works Division has a total of 8 chief engineers. Each sub-division consists of four sections including: planning, design, survey and inspections. Each section is headed by a superintending engineer (Figure 2.3).

Figure 2.2: Organizational Structure of Department of Public Works

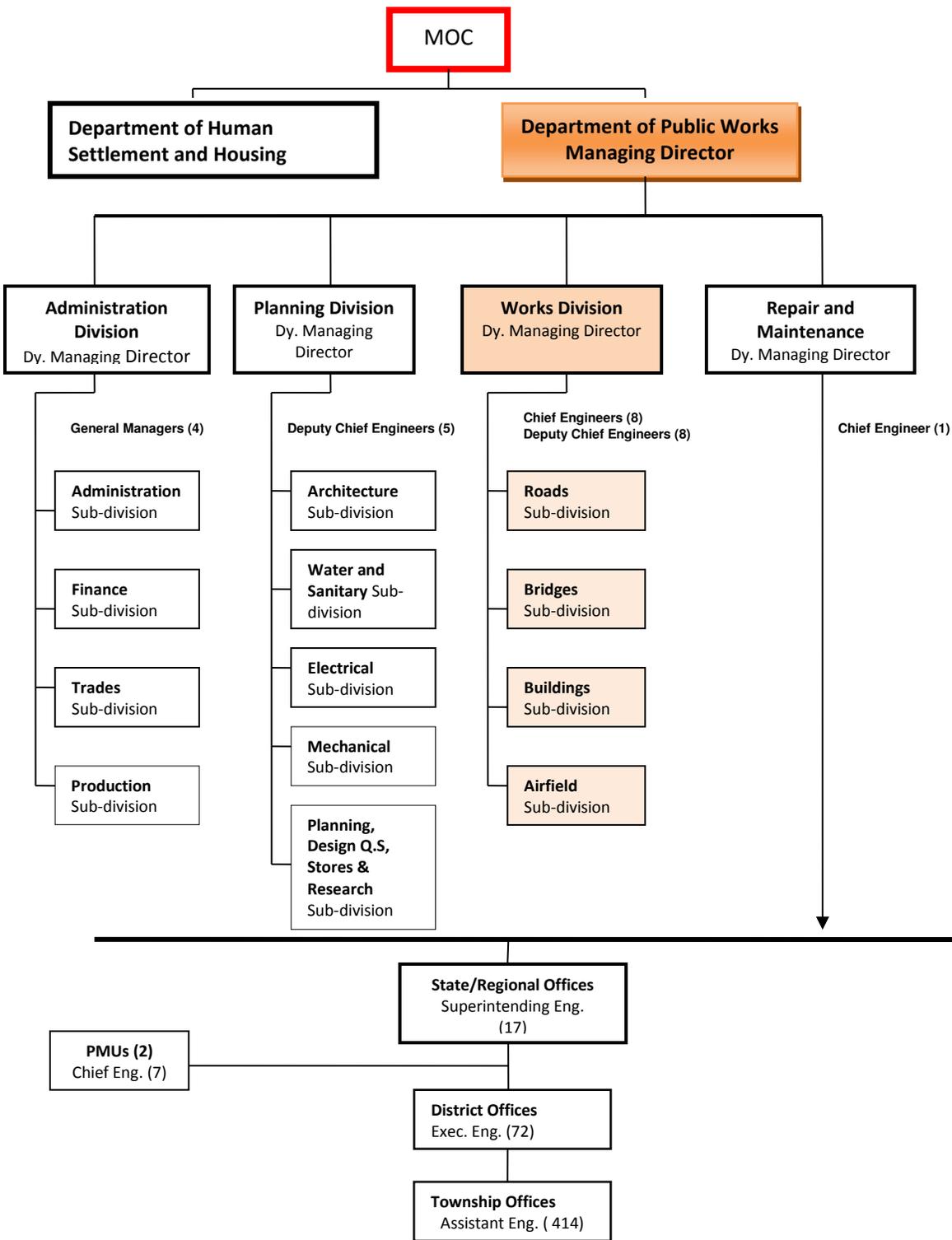
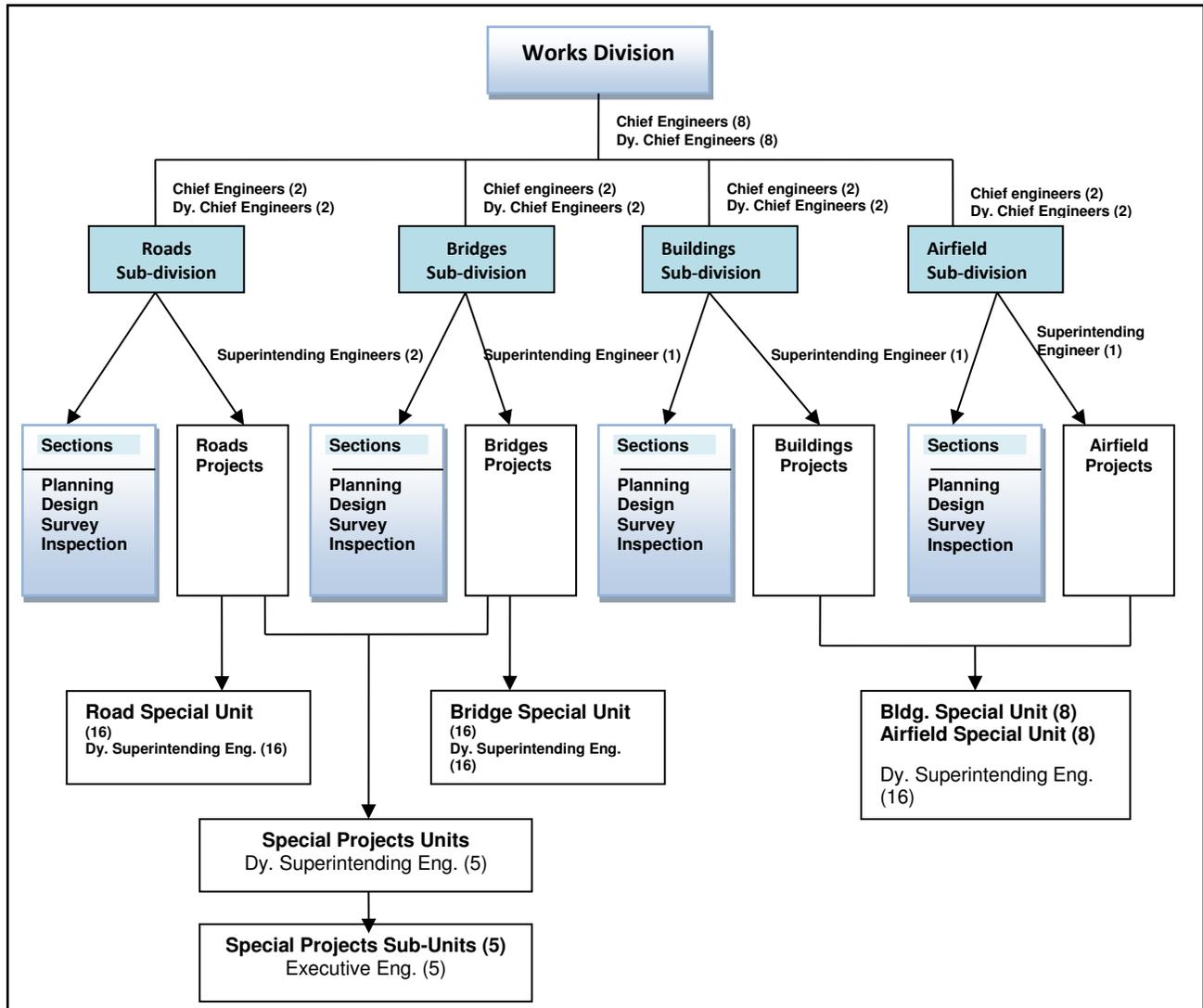


Figure 2.3: Organizational Structure of Works Division



The staff at the central level i.e. PWD Head Office, is mainly responsible for planning, design and providing technical guidance. Implementation and supervision of works is carried out by the engineering staff at the regional/state and district/township levels through the regular engineering staff or through PMUs established for specific projects, depending upon the sources of funding.

2.2.2 State/Regional Level

At the state and regional level, there are nine state offices in nine states (Kachin, Kayah, Kayin, Chin, Mon, Rakhine, Southern Shan, Northern Shan, Eastern Shan) and seven regional divisions in other eight areas (Yangon, Mandalay, Stae Saganning, Thanintharyi, Bago, Magway, Ayeyarwaddy). The state offices and regional divisions are headed by Superintending Engineers (one Superintending Engineer for each state office or regional division).

In each state office or regional division, there are three special units (road special unit, bridge special unit, and building & airfield special unit). For special projects, the state offices and regional divisions have special project sub-unit – currently, there are five state offices/regional divisions that have special project sub-units. Special units and special project sub-units are headed by 53 Superintending Engineers (road special unit: 16; bridge special unit: 16; building, airfield special unit: 16; and special project sub-unit: 5).

For the projects that are funded from the local authority's budget the role of the staff in planning, designing, and providing technical guidance at the state offices and regional divisions is the same as the staff at the central level. Supervision of works is done by the lower office levels. For the projects that are funded by the central government's budget (budget from the Union), staffs of state offices and regional divisions coordinate with the staffs of MOC central level on planning and supervisions of construction works. [District/Township Level](#)

There are 72 district offices under the state/regional offices. The district offices are headed by Executive Engineers.

There are 404 township offices under the district offices (including 135 Grade A township office, 195 Grade B township office, and 74 sub-town office and one village maintenance group). Staffs of township offices play critical role in project implementation. The works such as tendering of construction materials, organizing construction groups, supervising of construction works, etc. are managed by the township offices.

2.2.3 PMUs

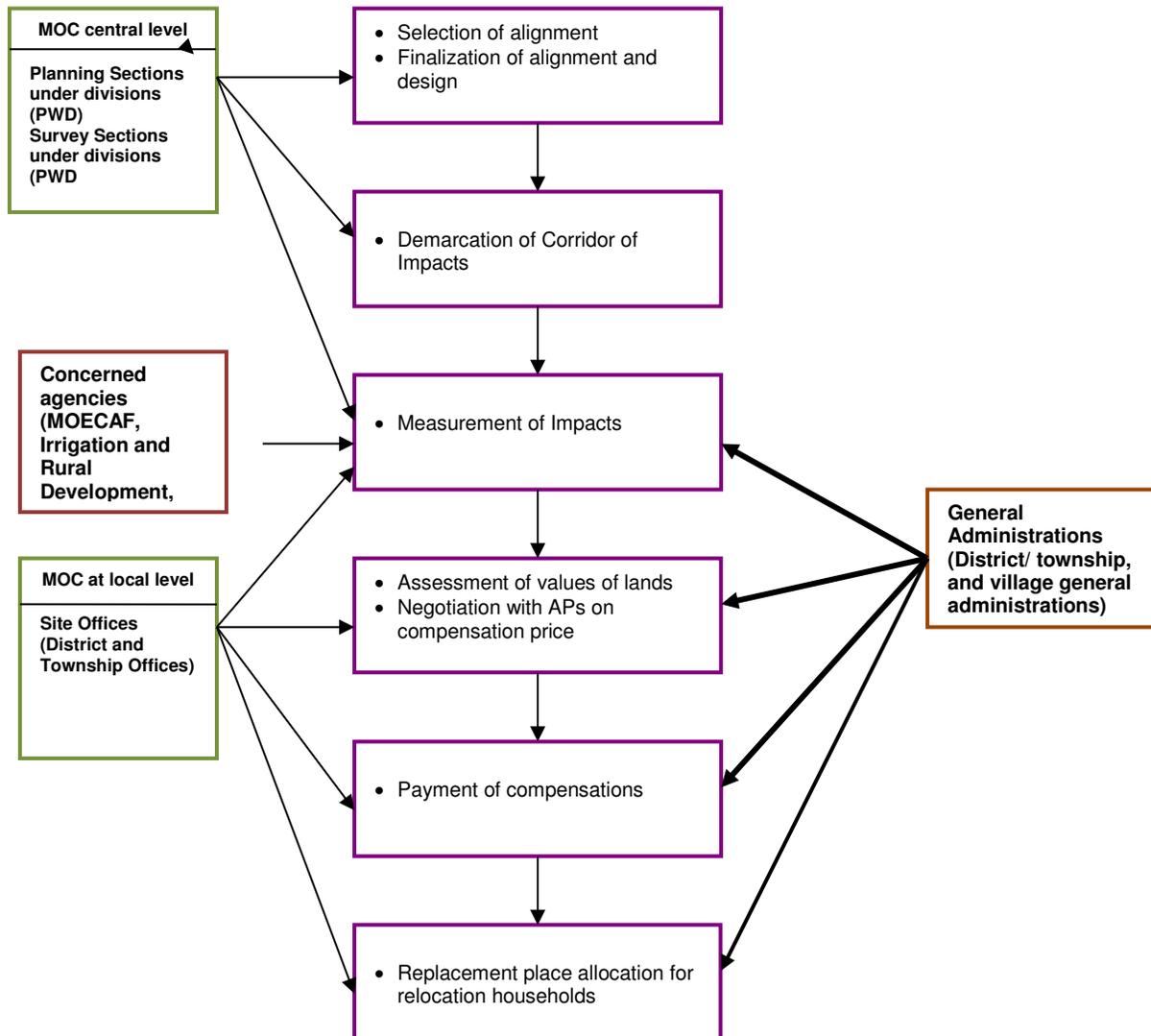
PMUs are established to manage particular projects that funded by multilateral agencies. For the projects that funded by the government, the aforementioned special units and sub-special units manage the works with similar roles of a PMU. Once a project is developed and funded by international development and funding agencies, the PMU is set-up with the staffs from the Works Division at the central level. PMUs work with site engineers (district and township offices) and local authorities to prepare and implement the project. PWD currently has seven PMUs. The PMUs are generally based at state/region where the projects are implemented. PMUs are headed by the Chief Engineers.

2.3 Role and Responsibilities of Key Departments and Divisions in social Safeguards

As shown in Figure 2.3, each sub-division consists of planning, design, survey, and inspection sections. These sections are primarily responsible for design & planning of projects through their professional and technical staff. Planning, including determining alignment of roads and location of bridges, location of buildings, airfield, etc. is the responsibility of the respective planning, design and survey staff. During the course of design, planning and survey, the staff of planning and survey sub-sections are responsible for assessment of social impacts and, working with state/regional & district/township offices and with other ministries and institutions, in addressing social safeguards issues in their projects. Staff at the state/regional level does not have any responsibility for land acquisition and resettlement issues in the projects that are funded by the union government.

Specific procedures and sequence of activities adopted by the planning and survey sections are presented in Figure 2.4 and described in the following sections.

Figure 2.4: Planning and Survey Process



2.3.1 Planning Sections

Each sub-division under Works Division has a planning and design section which is primarily responsible for design and planning of their respective projects.

The planning section under Roads sub-division has about 100 employees, including 70 engineers and 30 technical staff, all with engineering education background. For the projects funded by multilateral agencies the staff of the planning sections works closely with the consultants engaged by the project in planning and designing works. The preliminary designs and alignments are discussed with the site engineers (district and township levels) and district/township general administrations and further refinement to the alignments made based on information collected from land use maps and other relevant documents. Where the project

is likely to traverse rural areas and farm land the planning staff also consults the Ministry of Agriculture and Irrigation.

In the course of finalization of alignments and project locations, consultations with local communities, through the local general administration offices, are also held. Based on the information collected during the field verification and consultations with local authorities, due consideration is given to avoid impacts on land and buildings, particularly religious & defence lands.

One of the constraints that the planning sections have is the lack of access to updated land use and land ownership maps, particularly for agricultural and farm land which is managed by the Ministry of Agriculture and Irrigation (MAI). Maps for agricultural and farm land are being prepared, updated and maintained by the MAI but other ministries and government institutions do not have ready access to such maps. The maps available with the local land record offices are not always correct or updated. This presents constraints in initial planning for roads and location of other projects. It is when the preliminary alignments and designs are provided by the line ministries that the MAI reviews them and requests for necessary revisions based on the information on land use and ownership that they possess. This adds one un-necessary layer in the planning process and causes delays in finalization. Prior access to updated maps at the pre-feasibility or preliminary design stage would make the process more efficient.

Following the consultation with local authorities, communities and concerned agencies the alignments of proposed roads and location of projects are finalized and submitted to MOC for formal approval. With the approval of the design by the MOC the responsibility of the planning section is over and project documents, drawings and maps are handed over to the survey section for further work.

For the domestically funded projects, similar planning and design procedures are adopted except that consultations with local people on the proposed alignment and design are normally not carried-out.

2.3.2 Survey Sections

The survey section under Roads sub-division has about 70 professional and technical staffs. Besides survey of land and assets impacts by projects, other surveying tasks of the survey sections include gathering information on geographical conditions, soils, traffics surveys, etc. The survey procedures for assessment of affected land and assets are the same for the projects funded by the multilateral agencies as well as those domestically funded.

Once the road alignment and project locations are finalized, the demarcation of alignment, corridor of impact, and project location boundaries, through stake-out, is carried out by the survey section with the support from the planning section and with prior consultation and agreement with the local general administration office at the township or district, as the case may be.

In Myanmar, different ministries are responsible to manage their land. Therefore, coordination with the representatives of different ministries and the land record office of the general administration office is critical, and often very complex and time-consuming, for completion of demarcation.

Following demarcation of alignment, COI and project boundaries, the survey staff carries out measurement of impacts. The information collected include: name of affected household heads;

area, type and ownership of affected land; area and type of structures affected; area and type of crops; and number and types of trees. There is no standard format or forms used to document impacts of assets. When complete, the summary of information collected together with the necessary maps (linear maps at 1:1200 scale) and drawings are handed over to the district or township general administration. Only after getting approval from the district or township general administration, the result of measurement are disclosed to the affected households. After providing the result of measurement on affected land and assets to the concerned district or township general administration the work of survey team is over.

2.3.3 District/Township Engineering Sections

Staffs of district and township office level are involved directly on planning and implementation of road projects. Generally, the engineers of district/township office level have four main responsibilities:

- (i) coordinate with planning section on planning and design the roads, bridges, buildings, and airfield;
- (ii) coordinate with village, township and district general administrations for the administrative procedures for project planning, approval and implementation, including land acquisition and resettlement;
- (iii) organize and supervise of construction activities; and
- (iv) coordinate with sections under subdivisions of Repair and Maintenance division for the repairing and maintaining plan as well as the repairing and maintaining activities.

The engineering staff at the state/regional offices coordinates and assists the central level planning and survey teams for finalization of designs and alignments. They also assist in coordination with the offices of other ministries and institutions and local general administration. Once the design and road alignments are finalized and approved by the MOC, the state/regional PWD staff carries out construction supervision. Additionally, the engineering staff is given the responsibility of planning and design of projects that are funded by state or regional governments.

The staff at the PWD state/regional offices also assists and coordinates the work on identification of impacts and measurement of affected land and assets. They also provide support to the local general administration office in the valuation of affected assets and assessment of compensation, negotiation with affected households and compensation payment. Where necessary, PWD staff also works with the local general administration office to identify suitable land for relocation of displaced households.

Staffs of PMUs are not directly involved with land acquisition and resettlement in their project but coordinate with and provide assistance to the staff from the central level as necessary. PMU also assist in coordination with relevant agencies and local general administrations to implement land acquisition and resettlement for the project.

2.4 Coordination within and other Departments/institutions

2.4.1 Coordination within MOC

The planning, design and survey activities in the MOC offices at the central, state/regional and district/township levels are well coordinated. Engineers of site office collect the data and information (land use, traffic, soil, etc) for the staff at central level for planning and designing of roads. Consultation with local authorities is carried out with participation of engineers of different levels. Site office engineers support staff from central level of MOC on getting comments of local general administrations on the alignments and the designs.

Similarly the coordination between the divisions and sub-divisions is good. However, the coordination of activities between various sub-divisions is not evident. This may be because they are responsible for activities within their own divisions and sub-division.

2.4.2 Coordination between MOC and Local and district General Administration

Planning, design and implementation of roads, bridges or buildings require close coordination of MOC staff with district and township general administrations. General administration offices play very important role in the planning and implementation of projects not only because they have the mandate and oversight responsibility for implementation of LAA (1894) but they also have closer working relationship with the local land record offices.

Within MOC, the planning and survey sections under the sub-divisions (Roads, Bridges, Buildings and Airfield) are mainly responsible to address land acquisition and resettlement issues in coordination with other concerned ministries. The staffs of the MOC (PW) planning and survey sections coordinate with concerned district, township and village general administrations, engineers of site offices (district and township offices of MOC) and relevant agencies in district and township levels (General Administration, Agriculture and Irrigation; Environment Conservation and Forestry; Livestock, Fishery and Rural Development; and Land Records) to identify affected assets and make assessment of potential impacts.

During the planning stage, local general offices facilitate access to maps and land records. Local general administration staff, with support and assistance provided by the line ministries, conducts public consultations, assesses impacts, determine compensation and hold negotiations with the affected communities.

Project design and drawings are reviewed by district/or township general administration office and approved before they can be finalized by the line ministries. Field work consisting of surveys, demarcations, impact assessment and consultations with the communities in respect of the projects cannot be carried without essential support from the district or township general administration and chiefs of village general administrations.

The district, township and village general administration play critical role in handling land acquisition and resettlement including identification of affected land and assets, determination of compensation, assessment of land and asset values, negotiation with affected persons on the compensation amount and payment of compensation. Although in the recent past some changes have been made in the procedures for assessment of market values for affected land and structures and information disclosure to the affected persons, there is a need to further strengthen capacity among the local general administration staff for their better understanding of international best practices in resettlement planning and implementation.

3 Assessment of Capacity of MOC Staff

3.1 PWD Staff and Educational Background

MOC has a total staff strength of 25,075 employees of which 13,957 are engineers, officers and skilled technicians; and about 23665 are semi-professional and general staff. Department of Public Works has a staff strength of 11,000 of which about 4,000 are engineers, other professionals and skilled technicians.

3.2 Experience and Capacity of PWD staff in Social Safeguards

As described above, only the planning and survey sections in the central level of MOC are involved with land acquisition and resettlement issues during the preliminary design and finalization of project locations and alignments. However, the scope of their addressing the range of issues is rather limited due to several reasons.

In Myanmar various ministries are responsible to manage their own land. Agricultural land by the ministry of Agriculture and Irrigation, Mining and fisheries land by respective ministries, forestry by MOECAF, and so on. Added to the complexity is the land record at the district and township level that are managed by different institutions. The line ministries such as the MOC need to work with multiple ministries and institutions to get access to information on land types, ownership and other relevant details necessary for planning and design. Further, local general administration offices at the district level have the mandate for oversight on LAA (1894). All development plans need to be provided to the local general administration offices for their review before they can be finalized. On social safeguards issues local general administration plays dominant role with support and assistance provided by the line ministries.

For indigenous peoples' safeguards issues, numerous Ministries have some mandates or functions that pertain to social development including but not limited to the Ministry of Social Welfare, Relief and Resettlement, Ministry of Livestock, Fisheries and Rural Development, Ministry of Labor where the Department of Social Security Board is subsumed, Ministry of Border Affairs, and MOECAF.

MOC is experienced in managing and implementing infrastructure projects. However, project management that ensures safeguarding of the affected people is not evident in their organizational policies, planning process, structure of their organizations, project management practices and processes, and in their employed manpower mainly because of the legal and administrative constraints described above.

Experience and capacity of staff of planning section in land acquisition and resettlement are limited in scope. For example, during initial planning stage alignment of roads is generally decided based on technical consideration and it is not clear to what extent the decisions on alignment are based on social consideration: avoiding or minimizing adverse impacts on people and their assets. Screening of preliminary designs/alignments for social impacts is not conducted. It is also not evident if alternative design options are considered to minimize adverse social impacts. Perhaps it is only when the preliminary designs are taken for site verification the designs/alignments are modified based on the inputs and opinion by local general administration, village chiefs and beneficiary communities.

The staffs in the survey sections of the MOC possess educational/training background that is generally not sensitive to social issues. After hired by the MOC, the staff is sent for training at

the Faculty of Surveying at the Pyin Oo Lwyn Training School (near Mandalay) for one-year. The training topics covered include topographical mapping, skills of measurement, basic survey analysis and others technical aspects. After graduation staff is assigned to work with more experienced and senior staff to gain practical experience. After a few years the staff is sent back for another 1.5 year for the intermediate course in the Faculty.

During the course of their work in the field, bare minimum and rudimentary information on affected households and impacts is collected. Critical requirement of complete census of affected households, preparation of detailed inventory of losses (land, structures, crops, trees and other fixed assets, business, employment, etc.), socio-economic baseline data is neither felt important nor required under the current legal framework and procedures. There are no standard procedures to assess degree of impacts, entitlements for different types of losses, determining compensation at replacement costs, grievance redress mechanism, public consultation and their participation, monitoring and supervision on safeguards issues and disclosure of impacts, entitlements to affected households. Economic displacement is not identified nor is there any provision for income restoration of affected households. There are currently no requirements for preparation of safeguards documents such as: RP and IPPs.

All staffs of site officers are engineers with very little, if any, exposure to social issues in development by educational background or by training. The support by the site office staff to the planning and survey section and to the local general administrations is only for limited impact assessment and compensation payments, or as directed by the local general administration offices. In donor funded projects they are put into awkward and conflicting situations with the local general administration offices which have mandate to follow procedures in accordance with the LAA.

Institutional capacity of MOC to address social safeguards was assessed using four main focus areas namely: (i) enabling conditions; (ii) organizational set-up; (iii) stakeholder interaction; and (iv) individual competences. Table 3.1 provides an indicative assessment of respective capacity to implement social safeguards.

Table 3.1: Indicative Assessment of Institutional Capacity to Implement Safeguards

Field	Existing Capacity MOC/PWD
Awareness of involuntary resettlement issues and requirements	MOC/PWD staff has low awareness of social safeguards (Involuntary resettlement) issues and international best practices. In donor funded projects, although MOC senior management accepts the need to follow donor's social safeguards policies but with limited understanding on what that will entail. During preparation and implementation, the site staff is generally neither aware of the policy objectives nor the procedural requirements and often resist the requirements that are in significant departure from existing national policies and procedures.
Awareness of indigenous peoples issues	There is no awareness of indigenous peoples issues and requirements in planning and implementation of projects as there is no legal framework in Myanmar that specifically requires due attention paid to IP issues in development projects.
Legal and administrative framework to	So far, there is no legal framework or administrative guidelines issued by MOC to follow social safeguards

pay attention to social safeguards issues in planning and implementation	issues in planning and implementation of projects.
Prior requirement for public consultation	There is no prior requirement for public consultation. Information dissemination to affected communities is limited to demarcation date, the result of measurement of impacts, and the amount of payment for the households, There is no provision for any feedback from affected communities.
Disclosure of project objectives, potential impacts and mitigation measures	There is no provision for disclosure of project objectives, potential impacts and proposed mitigation measures by MOC to stakeholders
Disclosure of project documents	There is no provision or requirements for MOC to disclose project documents to general public or to the affected communities.
Grievance redress mechanism	There is no structured grievance mechanism in place in normal operation of the MOC. PMUs and township engineers often seek assistance from local general administration staff in resolving complaints only if they are likely to effect implementation activities
Monitoring and supervision of social safeguards issues	MOC does not monitor and supervise of social safeguard issues.
Number of staff directly involved in addressing social safeguards issues in planning and implementation	The role of 35 staffs of the planning section and 70 staffs of survey section is limited to measuring the impacts of land acquisition.
Number of staff assigned for public consultation and grievance redress mechanism	There is no staff specifically assigned for public consultation and grievance redress mechanism
Experience and skills of staff at central level in addressing social safeguards	Staff of survey section has some experiences with respect to collection of data on affected assets (land and structures)
Experience and skills of staff at the district/township level in addressing social safeguards	Staff of district/township general administration have some experiences with documentation of impacts

3.3 Concluding Remarks

Assessment of capacity in MOC/PW has identified that:

- (i) There is very limited capacity and appreciation in MOC at operational level on social safeguards and ADB and World Bank safeguards requirements.
- (ii) The basic social safeguards related activities such as: modifications in alignment and changes in design, etc.; are carried out by the planning and survey staff during the planning stage appear to be more based on technical consideration rather than as a result of conscious efforts to avoid or minimize social impacts.
- (iii) District and township general administrations are experienced in assessing the value of affected land and assets and negotiating of compensation price with affected persons. However, the procedures to ensure that affected persons are consulted and compensation is made fairly for the affected persons are not evident.
- (iv) Although no such interventions are required under the current legal framework and procedures, the district and township general administrations have no, or limited, experience in relocation and resettlement, at least

equivalent to international standards, as well as to develop suitable income restoration programs for the affected people.

4 Summary of Key Issues and Way Forward

Myanmar's high reliance on natural resources and increasing investment in industry-based economy would lead to a number of social issues requiring progressive legislation and institutional strengthening. To ensure that the Government of Myanmar (GoM) can cope with the rapid expansion while protecting its people and environment, there is a need for it to develop a country safeguards system (CSS) that meets the needs of Myanmar as well as the international community.

Existing legal framework, provisions of the acts & regulations are inadequate to efficiently identify and mitigate adverse impacts on indigenous peoples and those arising due to land acquisition (involuntary resettlement) in development projects in general, and those undertaken by the MOC in particular.

At present, there is no GoM ministry that formulates and implements policies and programs for the recognition, promotion and protection of the rights and well-being of the indigenous peoples with due regard to their ancestral domains and lands, empowerment, social justice, human rights and cultural identity. For this reason, a robust indigenous people's CSS would also contribute to the goal of sustainable social development.

The review of existing legal framework relating to land acquisition and resettlement and ethnic nationalities (indigenous peoples), and assessment of existing capacity in the MOC/ PW department identified gaps in the following three major areas:

- (a) social safeguards regulatory framework and guidelines which can be used by the MOC/PW in its operations;
- (b) lack of resources and trained staff; and
- (c) lack of capacity in social safeguards planning, implementation and monitoring.

Any measures formulated to build capacity in MOC/PW and address above gaps will need appropriate enabling environment for it to succeed. Key elements of enabling environment may, among others, include:

- (i) **Appropriate Legislation.** There is a need to strengthen legal domain that will form the basis for other supporting set of actions. Legislation needs to be supported by comprehensive technical guidelines and manual for planning and implementation of social safeguards issues.
- (ii) **Institutional Strengthening.** MOC/PW currently does not have staff experienced in all aspects of social safeguards issues. The procedures they follow are as required by the existing legal framework (Land Acquisition Act (1894)) and what the procedures required by the local general administration offices which have the mandate for implementation of the LAA. MOC/PW does not have dedicated unit/division to oversee social safeguards in its operation particularly to follow the social safeguards planning, implementation and supervision and monitoring procedures required for any funding by multilateral agency. There is a need to hire experienced senior staff to oversee implementation of social safeguards policy.
- (iii) **Increased interaction with other ministries.** MOC/PW even with a social safeguards legislation in place and capacity to plan and implement social safeguards in their projects will not be functional until all the other ministries and institutions are on board and have the same understanding of issues and agreement. This is important because in Myanmar multiple ministries are involved in management of different types of land. Coordination with different ministries is critical for efficient planning and implementation of projects.
- (iv) **Added to the complexity is the land record at the district and township level that are managed by different institutions.** The line ministries such as the MOC need to work with

multiple ministries and institutions to get access to land types, ownership and other relevant details. Timely access to updated maps and land records is critical for PW's operations.

- (v) Knowledge Management. Myanmar is a country in transition. It has opened its economy only recently. The body of knowledge on social issues in development is almost non-existent. It is imperative that the MOC/PW staff at the center, regional and local level is gradually trained and given opportunities to gain knowledge on social issues in their operation. Various approaches can be used to build their knowledge and experience in development work. These may include: on the project training, learning by doing, under the guidance of experienced consultants, access to project reports from countries, visits to various projects within and to neighboring countries, participating in overseas workshops, seminars on social safeguards, etc. MOC/PW should begin to acquire relevant material on social safeguards, preferably translated in Myanmar language, as reference material. Increased awareness of social issues will help MOC/PW to follow international best practices for impact assessment and improved procedures for SSG planning and implementation.
- (vi) Civil society is beginning to play an important role in the continuing reforms in Myanmar. NGOs and civil society organization can complement the efforts of MOC/PW in public consultation, assisting affected communities in grievance redress. They can provide voice to affected people. In due course, NGOs and civil society organization can even expand their role to implements resettlement plans and more specifically in the planning and implementation of income rehabilitation and livelihood restoration activities. MOC/PW on their part should see them as partners in development and create space for them for their positive contribution.

Approaches outlined above will require a change in work culture and perception in the MOC/PW. The management will have to develop a vision for their critical role in the future development of the country and take steps pre-emptively to prepare MOC to play that role effectively and efficiently.

There is a need to build social safeguards understanding and awareness within MOC through training workshops and provision of detailed manual to follow by the staff, civil society representatives, and coordination and cooperation with other development partners including international finance institutes and bilateral agencies. Capacity building for MOC staff on social safeguards understanding and awareness should include the district and township general administrations.

5 Recommendation on Capacity Building in MOC

Specific recommendations for capacity building in MOC/PW in social safeguards issues are summarized below.

5.1 Establishing Legal Framework

The report on the review of legal framework under this TA proposed formulation of MOC's social safeguards policy, supported by implementation guidelines, as an interim measures, to provide a legal context for MOC (PW) to address social safeguards in its operations. Pending a final decision, MOC can take specific actions for institutional strengthening and capacity building in social safeguards.

5.2 Institutional Strengthening

Specific recommendations for institutional strengthening include:

5.2.1 Environment and Social Safeguards Sub-Division

MOC (PW) needs to establish a dedicated unit for Environment & Social Safeguards to provide guidance and oversee social safeguards in PW operations. This unit is proposed to be at least a sub-division level and headed by senior safeguards specialists, with sufficient authority and mandate to coordinate with other sub-divisions on safeguards issues. The safeguards specialist to head this sub-division should be at least at the same administrative level as Chief Engineer or at least Deputy Chief Engineer. The proposed environment and Social Safeguards Sub-division should be supported by a Section with capable and experienced staff to work closely with their counterparts in other sections. Proposed administrative framework is shown in Figure 5.1.

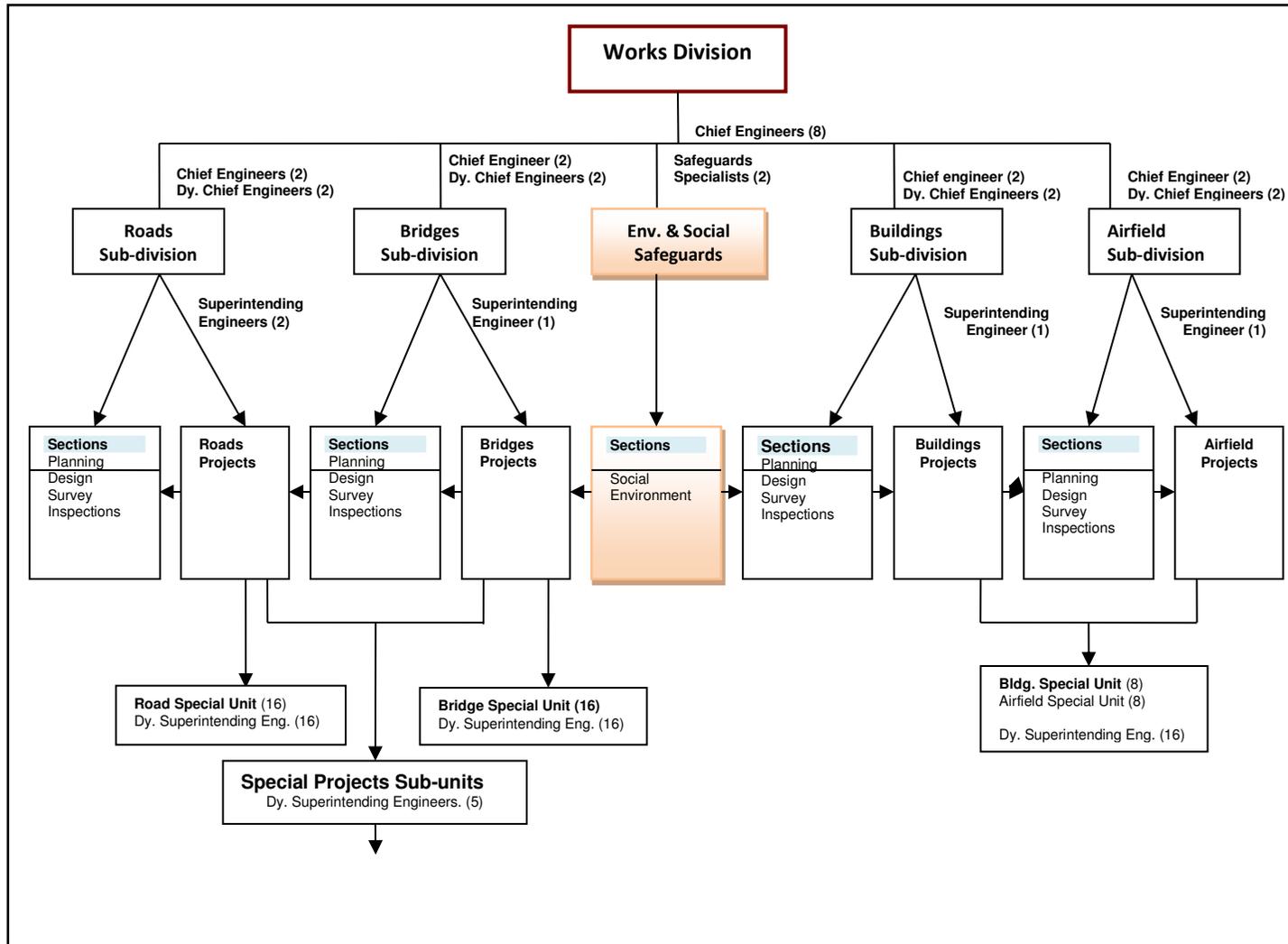
5.2.2 Strengthen Professional Staff

In parallel with establishing a dedicated sub-division in environment and social safeguards, MOC should begin to hire experienced professional and technical staff in social safeguards. The availability of social safeguards specialists, both for involuntary resettlement and indigenous peoples issues, is imperative as the SPS requires that qualified and experienced local experts conduct Assessment of Social Impacts (ASI) for both IR and IP safeguards and meet all requirements for safeguards planning and implementation.

Currently, there is not much local capacity in Myanmar in social safeguards and it is almost impossible to identify any professional staff sufficiently qualified and experienced in involuntary resettlement and indigenous peoples issues in development projects. However, there are currently several ongoing development projects in Myanmar that have moderate to complex involuntary resettlement issues. Most of these projects, particularly those funded by multilateral agencies, have international experts with their counterpart national staff who overtime would be trained in involuntary resettlement and ready to take up the responsibilities independently. MOC should attract these professionals and give them an opportunity to gain more experience to ultimately take up senior positions.

For indigenous peoples issues, beyond any formal educational qualification, the experience of directly working with indigenous peoples in Myanmar would be very relevant. Alternative sources of relevant experts are members of indigenous peoples who have left the communities and undertaken education outside the traditional system, and social researchers from educational and private sector (such as mining, forestry) institutions and who have been based in the area. MOC should give preference to people who have local knowledge of IPs and proficient in local languages. Such persons should be further given an opportunity to undergo training in local customs, cultural practices and land rights issues.

Figure 5.1: Proposed Environment and Social Safeguards Sub-division



5.3 Capacity Building

The review of the existing capacity in MOC staff at central level and district/township level it is shows the lack of awareness and understanding of social safeguards issues in development projects. The aspects that the staff need to have capacity built on include for (i) a better understanding of the principles, requirements, procedures and good practices of international development and funding agencies in dealing with social safeguards issues in project planning and implementation; and (ii) a better use of some softwares that they are using for works that related to land acquisition and resettlement such as Land Development, GIS, and others.

Specific recommendations for capacity building for MOC (PW) under this TA include:

- c. A workshop on social safeguards to increase awareness among the senior and mid-management level staff in MOC. This workshop was conducted in July 2014; and
- d. A more comprehensive training workshop for the headquarter, townships, district and PMU level operational staff.

5.4 Other Action

Realizing that knowledge gained through such short-term training cannot be sustainable and complete without any hand-on practice, greater emphasis is placed on learning by doing – project based training. It is recommended that the staff is trained under the guidance of international and national experts on actual projects covering entire project process.

Based on the current recognized lack of capacity across the environmental and social space, it is recommended that international social and indigenous people's expert be engaged over the short to medium terms (up to two years) to assist and increase the capacity within MOC (PW) on social safeguards issues. The specialists should form an integral component of the MOC (PW) team, in that the specialists would:

- (a) be in house and able to immediately respond to specific project requirements;
- (b) be available to undertake informal and formal training across MOC(PW) on both a set and as needs basis;
- (c) review social impact assessments and be able to train MOC (PW) staff in undertaking such work; and
- (d) assist PW management closely liaise with international development partners and where necessary provide advice to senior MOC staff on particular issues related to policy and projects.

MOC (PW) should also provide opportunities to its selected staff with greater exposure on international best practices in social safeguards through gaining more knowledge on how social safeguards issues are addressed in neighbouring countries through short study tours.

6 Proposed Training Plan

Proposed training workshop is aimed mainly at MOC (PW) operational level staff from MOC's headquarter, townships, districts and PMU offices. Additionally, some staff from concerned ministries such as: Ministry of Agriculture and Irrigation; Ministry of Home Affairs; Ministry of Border Affairs; and MOECAAF are also expected to participate. Representatives from other multilateral agencies such as: the World Bank, IFC and JICA are also expected to take part. A total of more than 90 participants are expected to be trained. The proposed training program is attached in the Appendix 1.

6.1 Key Focus Areas for Training and Training Modules

The trainings in social safeguards is designed to provide participants an overview of safeguards issues in project process. It will provide an opportunity to participants to understand the sequence of activities and steps required in planning and implementation of social safeguards. Key training will include the following key modules:

- Module 1 : Introduction to Social Safeguards:
Overview of key principles & objectives
Local laws, regulations and practices in IR and IP safeguards
- Module 2: Project Process & Resettlement Planning
Social safeguards planning in project process cycle
Scope and contents of safeguards documents
- Module 3 : Overview of key Issues in social safeguards
- Module 4 : Social safeguards in Transport Sector
- Module 5: Compensation and Land for Land
Replacement cost
- Module 6 : Relocation & Income Rehabilitation
- Module 7 : Public Consultation, Participation and Disclosure
- Module 8 : Grievance Redress Mechanism/Accountability
- Module 9 : Supervision & Monitoring
- Module 10 : Resettlement Implementation Management
- Module 11 : Overview- social safeguards planning & implementation

The training will be interactive in the sense that participants will be encouraged to take active part in discussions. Group exercises are designed to provide an opportunity to participants to learn by carrying out specific tasks in safeguards planning.

6.2 Training Schedule

To be effective the training workshop will be conducted over a period of three days. This will ensure that all the key IR and IP issues are covered adequately; participants are provided sufficient time to absorb contents of the training, discussions and exchange of experiences and ideas. The proposed training in social safeguards is proposed to be held in mid-January 2015.

Appendix 1: Proposed Training Program

RETA 7566: SOCIAL SAFEGUARDS CAPACITY DEVELOPMENT TRAINING WORKSHOP PROGRAM

January 14, 2015:

8.00 - 8.30 Registration
8.30 - 9.00 Introduction and Welcome Note (ADB Representative) - 10 min.
Objectives of the Training & Modules (10 min)
Participants' introduction – 15 min.

Morning Session: Chair – (Min. of Border Affairs)

Module 1 : Introduction to Social Safeguards

09.05 - 09.35 IR – An Overview of Key Principles and Objectives
09.35 - 10.00 IR- Local laws, Regulations & Practices
10:00 - 10:15 Open Forum/Q&A
10:15 - 10:30 Tea Break
10.30 - 10.50 IPs- An Overview of Key Principles and Objectives
10:50 - 11:05 IPs- Local laws and Regulation
11.05 - 11.20 Recap of Issues on Local Laws, Regulations and Practices
11.20 - 11.30 Open Forum / Q&A

Module 2 : Project Process & Resettlement Planning

11.30 - 12.00 Social Safeguards Planning in Project Process Cycle
12.00 - 13.30 Lunch Break

Afternoon Session: Chair – (Chief Engineer PW-MOC)

Module 2 : Project Process & Resettlement Planning (Continue)

13.30 - 14.00 Scope and Contents of RF and RPs
14:00 - 14:30 Scope and Contents of IPDF and IPDPs
14.30 - 14.45 Open Forum / Q&A

Module 3 : Key Issues – Overview

14.45 - 15.15 Overview of Key Issues in Social Safeguards
Planning & Implementation
15.15 – 15.30 Open Forum/Q&A
15.30 – 15.45 Tea Break

Module 4 : Social Safeguards in Transport Sector

15.45 – 16.15 Overview of IR Issues in Transport Sector
16.15 – 17.00 Case study: Transport Sector (Maubin-Pyapon Road Proj)
17.00 – 17.10 Summary of Proceedings of Day 1

January 15, 2015:

Morning Session: Chair – (Min of Home Affairs)

Module 5: Compensation and Land-for-Land

09.00 - 09.30
09.30 - 10.00
10.00 – 10.15
10.15 – 10.30

**Compensation, Replacement Cost & Land-for-Land
Assessment of Compensation:
Practices and Procedures / Methodologies**
Open Forum/Q&A
Tea Break

Module 6 : Relocation & Income Rehabilitation

10.30 - 11.00
11.00 - 11.30
11.30 - 11.45

**Relocation, Income Rehabilitation
Informal Settlement & IR issues**
Open Forum/Q&A

Group exercise

11.45 - 11.55
11.55 - 12.25
12.25 - 12.35
12.35 - 13.30

Introduction to Group Exercise
Screening for IR, Initial Social Assessment & Categorization (2 Groups)
Screening for IP, Initial social Assessment & Categorization (2 Groups)
Discussion on Impact Assessment
Lunch Break

Afternoon Session

13.30 - 14.00
14.00 – 15.00
15.00 – 15.15

**Key Consideration in Designing of questionnaire: Census, IOL & SES
Field Surveys and Interview Techniques**
Tea Break

Group Exercise

15.15 – 15.25
15.25 – 16.05
16.05 – 16.20
16.20 – 16.45
16.45 - 17.00

Introduction to Group Exercise
Questionnaire Design: Census, IOL, SES (2 Groups each)
Compilation of Questions by Groups (Census, IOL, SES)
Group Presentation
Summary of Proceedings of the afternoon session

January 16, 2015:

Morning Session: Chair (MOECAAF)

Module 7 : Public Consultation, Participation and Disclosure

09.00 – 09.40 **Objectives, Issues and Procedures**
09.40 – 09.50 *Open Forum/Q&A*

Module 8 : Grievance Redress Mechanism/Accountability

09.50 – 10.20 **Grievance Redress Mechanism**
10.20 - 10.30 *Open Forum/ Q&A*
10.30 – 10.45 *Tea Break*

Module 9 : Supervision & Monitoring

10.45 – 11.30 **Supervision and Monitoring – Objectives, Indicators & Report**
11.15 – 12.30 *Open Forum & Discussion*
12.30 – 13.30 *Lunch*

Afternoon Session: Chair – (MD - PW)

Module 10 : Resettlement Implementation Management

13.30 – 14.15 **Resettlement Cost and Financing – Principles & Process**
14.15 -15.15 **Resettlement Implementation Management**
15.15 – 15.30 *Tea Break*

Module 11 : Overview- Social Safeguards Planning & Implementation

15.30 – 13.50 **Overview of IR issues and Challenges**
13.50 – 16.05 **Good Practice in SSG Planning & Implementation**
16.05 – 16.15 *Open Forum/Q&A*

16.15 - 16.30 Feedback on Training Workshop by Participants
16.30 - 16.35 Closing Remarks (*Chair*)
16.35 - 16.45 Vote of Thanks