

CHAPTER - 9

PARTICIPATION AND CONSULTATION

9. PARTICIPATION AND CONSULTATION

9.1 PARTICIPATION IN PROJECT PREPARATION PHASE

To obtain World Bank or other international donor funding requires that high social, environmental and economic standards be met in Project design and implementation. One such requirement is that the Project development process should involve the stakeholders – those people and institutions who have an interest in the Project, who will be directly or indirectly affected by it – and that their involvement should be integrated into the decision-making for the Project.¹

The process through which stakeholders are involved in the conceptualization, planning, development and implementation of a Project has been called many names, including as in the case of the NT2, Public Consultation and Participation Process (PCPP) or more simply Public Involvement (PI). Public Involvement was the term used the UNDP and ESCAP in developing a recent *Public Involvement (PI): Guidelines for Natural Resource Development Projects*. This manual used the NT2 as a model for carrying out the process public consultation for large-scale development projects, particularly those impacting on natural resources and local communities, in Southeast Asia and especially in the Mekong sub-region.²

Public Involvement is both an inclusive and an evolving concept that finds expression in a wide range of specific arrangements. It is inclusive in that it covers a wide range of people and institutions, from powerful multi-laterals, governmental, international and non-governmental and private sector organizations, to poor people in remote and impoverished areas whose lives will be directly affected by the Project. It is evolving in two senses. First, the practice of Public Involvement itself is evolving as it is applied in different settings and new, creative approaches are developed. Second, Public Involvement in any project is often seen as evolving through levels of increasing stakeholder inclusion.³

9.2 PUBLIC INVOLVMENT OF RESETTLERS

While all levels are important, that of the local stakeholders is paramount, since resettlement planning implies critical decisions regarding the future of the displaced

¹ Franklin, Barbara A.K. 1997. *A Review of Local Public Consultations for the Nam Theun 2 Hydroelectric Project*. Vientiane, Lao PDR. September 30. pp. 2-3.

² UNDP/ESCAP. 1997. *Public Involvement (PI): Guidelines for Natural Resource Development Projects*. Prepared by Environmental Resources Management (ERM). June.

³ Franklin 1997, p. 3.

groups. It is therefore incumbent upon the agencies involved in this planning to seek the participation of the resettlers. World Bank guidelines recommend specifically that:⁴

Affected populations [must] be consulted – directly or through their formal and informal leaders, representatives or non-governmental organizations – with respect to the social and economic aspects of the various alternatives being considered for resettlement. This will improve the understanding of their needs, resources and preferences, prevent costly mistakes, help reduce the understandable reluctance to move and the stress associated with the dislocation, and accelerate the subsequent transition to an integration within the new settlements.

Dissemination of information about the impending relocation, about resettlers' rights, compensation procedures, available choices, etc. is an indispensable premise for participation and requires an organized, systematic communication mechanism. Initial resistance or hostility to the idea of involuntary resettlement is normal and should be expected. The responses of settlers and hosts will greatly depend on establishing good communications and holding consultations with the concerned groups and their organizations (local associations, NGOs, etc.) and on encouraging their participation in finding solutions to the complicated problems encountered in the planning and execution of resettlement. Moreover, the lack of accurate information can exacerbate misunderstanding and strengthen resistance. It also gives rise to situations where some individuals may try to manipulate conditions to their personal advantage. A program to inform and educate is therefore a prerequisite for obtaining the cooperation of the affected population.⁵

Involving the local leadership and the non-governmental organizations (NGOs) is another basic requirement underlying the recommendations for World Bank resettlement operations. NGOs have effectively contributed to calling attention to problems emerging in various resettlement operations, and they are apt to articulate resettlers' needs and defend their entitlements. Since traditional organizations and ethnic and religious leaders are usually respected by the local people, planners and administrators *should seek their involvement in planning relocation whenever possible*, in order to facilitate communication, mobilization of group resources and cooperation.⁶

9.3 PUBLIC INVOLVEMENT OF THE HOST POPULATIONS

The host population living in the resettlement receiving areas needs to also be included in the public consultation process. A widespread fallacy is to omit the host population from the pre-project weighing of resettlement implications, only to discover during implementation that intractable problems arise. Since only rarely can implementing agencies find "empty lands" to place resettlers, the risks are that population density in the receiving areas will increase suddenly to levels above the carrying capacity of the land and the natural resources available to both hosts and incomers on a sustainable

⁴ Cernea, Michael M. 1988. *Involuntary Resettlement in Development Projects: Policy Guidelines in World Bank-Financed Projects*. World Bank: Washington, DC. Pp. 14-15.

⁵ Cernea 1988, pp. 15-16.

⁶ Cernea 1988, pp. 15-16.

basis.⁷

Although hosts may at first react favorably to the arrival of the displaced, serious conflict may arise as increased demands are placed on land, water, services, etc. In situations where no large blocks of land are available and a "fill-in" operation is planned, experience shows that hosts tend to see the newcomers as a source of cheap labor and may try to exploit them. Conversely, the resettlement agency will need to anticipate that feelings of jealousy will likely be aroused among the hosts if superior services and housing are provided to the settlers.⁸

To the extent possible, education, water, health, and other services will need to be made available for both groups, and a suitable social climate generated for their integration. To promote this climate, any payment due the hosts for land or other assets provided to settlers will need to be promptly rendered. Equitable treatment will need to be accorded as far as possible to both hosts and settlers. While increasing the costs to the Project, this will also help prevent impoverishment effects on the host populations and destructive environmental consequences caused by induced overpopulation in the arrival zones.⁹

The social, economic and cultural integration of the resettlers with the host population will be a slow process, which cannot happen through administrative decree. But it will be an indispensable process if viable communities, settlements, and new social networks are to be rebuilt through the purposive integration of host-resettler development.¹⁰

9.4 PROCESS OF PUBLIC INVOLVEMENT

For purposes of the RAP, Public Involvement (PI) will be defined as "*a process through which the views of all interested parties (stakeholders) are integrated into project decision-making.*"¹¹ The NT2 and the UNDP's PI manual have identified four levels of public participation:¹²

- **Information Gathering:** Information on stakeholders needs to be gathered in order to identify broad areas of concern to stakeholders and assure that the initial project design includes them in a broad sense. During this phase of formative research, the flow of information is predominantly from stakeholders to the project developers.
- **Information Dissemination:** The information dissemination phase focuses on giving out information on the project and the terms of reference for the various studies being done. Although members of the public are expected to ask questions at this stage, the communication flow is predominantly from project developers to stakeholders.

⁷ Cernea 1988, pp. 16-17.

⁸ Cernea 1988, pp. 16-17.

⁹ Cernea 1988, pp. 16-17.

¹⁰ Cernea 1988, pp. 16-17.

¹¹ UNDP/ESCAP. 1997, p. 1.

¹² Franklin 1997, p. 3.

- *Consultation*: In this phase, opportunities are organized for groups and individuals to give their opinions and contribute comments, concerns and suggestions about the project in a dialogue with the project developers. This phase of public involvement is important for environmental and social assessment studies, and the results should be reflected in these reports.
- *Participation*. In this final phase, stakeholders take part in joint planning, decision-making, implementation and evaluation of the project, for those aspects that concern them most directly. Participation is most often associated with the later phases of project development and implementation.

9.5 INTERNATIONAL GUIDELINES ON STAKEHOLDER PARTICIPATION

9.5.1 WORLD BANK

The World Bank, based on its wide experience of large-scale development projects, now promotes the involvement of the 'public' as a means of improving the planning and implementation of its projects and programs. The WB makes policy statements on public consultation (including disclosure of information) and participation in the form of Operational Directives (ODs). The ODs are accompanied by guidance documents on 'best practice', such as the *Environmental Assessment Sourcebook*, *World Bank Participation Sourcebook*, and *Environmental Department Dissemination Notes*. The main ODs dealing with public consultation and participation include:¹³

- OD 4.00, Annex B: Environmental Policy for Dam and Reservoir Projects¹⁴
- OD 4.01: Environmental Assessment¹⁵
- OD 4.20: Indigenous Peoples¹⁶
- OD 4.30: Involuntary Resettlement¹⁷
- OD 14.70: Involving Non-Governmental Organizations in Bank Supported Activities
- OP/BP/GP 4.04: Natural Habitats
- OP 11.03: Management of Cultural Property in Bank Financed Projects¹⁸
- OP/BP 17.50: Disclosure of Information

The World Bank Project Cycle provides a framework within which to apply WB policies and guidance. The project cycle is divided into two phases, design and implementation. The project cycle shows how environmental issues should be integrated into decision-

¹³ UNDP/ESCAP. 1997, p. 3.

¹⁴ Being reissued as OP/BP/GP 4.05.

¹⁵ Being reissued as OP/BP/GP 4.01.

¹⁶ Being reissued as OP/BP/GP 4.10.

¹⁷ Being reissued as OP/BP/GP 4.12.

¹⁸ Being reissued as OP/BP/GP 4.11.

making.

The WB has been asked by GOL to assist the NT2 by issuing a partial risk guarantee for about 70% of the funds to be borrowed from international lenders and by lending money directly to the NT2 Project through the IFC, which will significantly lower the cost of financing the project. However, the Bank's requirements for social, environmental and economic standards have had to be met.

9.5.2 INTERNATIONAL FINANCE CORPORATION (IFC)

The IFC is part of the World Bank Group and is responsible for financing private sector projects. As part of the World Bank Group, IFC has similar policies on disclosure of information, public consultation and participation as those of the World Bank. IFC's *Procedures for Environmental Review of International Finance Corporation Projects* (1993) are similar to the WB's OD 4.01 on Environmental Assessment. This document is IFC's principal statement on involvement of 'Affected Groups' and NGOs.

IFC also has an internal Policy on the Disclosure of Information (1994) updated in 1996 and published more widely in 1997. IFC issues accompanying guidance on the preparation of environmental assessments, which include guidance on the preparation of a Public Consultation and Disclosure Plan (PCDP).

9.5.3 ASIAN DEVELOPMENT BANK (ADB)

The ADB requires that the social aspects of development are included in its projects via a series of policies, guidelines and instructions to staff on: the Role of Women in Development (1985); Cooperation with NGOs (1988); Poverty Alleviation (1988); Human Resource Development (1989); Health and Population (1991); and Involuntary Resettlement (1995).

ADB has also issued comprehensive guidance to its staff on social development in the form of *Guidelines for Incorporation of Social Dimensions in Bank Operations* (1993), in which it states that: "People are the centre of development and development is for all the people." A handbook accompanies the Guidelines on *Incorporation of Social Dimensions in Projects*.

Guidance on environmental appraisal is provided in the form of sectoral environmental guidelines. The objectives of environmental appraisal are to ensure that appropriate environmental considerations are integrated into each stage of the project cycle. ADB requirements in EA cover three principal stages including:

Stage I – Initial Environmental Examination and Screening;

Stage II – Environmental Impact Assessment (EIA);

Stage III – Environmental Management

Recently the ADB has published a *Handbook on Resettlement: A Guide to Good*

Practice (1998) that contains a chapter on Consultation and Participation, with sections on "Identification of Stakeholders," "Participation Mechanisms," "Participation in the Project Cycle," and "Institutional Framework and Grievance Redress." Its Checklist on Consultation and Participation includes:¹⁹

- Identify and involve all stakeholders, especially people affected, in the consultation and participation process.
- Develop a participatory strategy for project planning, implementation, and monitoring and evaluation.
- List details required for information campaigns and for information dissemination.
- Establish a time line to complete activities such as an information campaign, compensation types and levels, entitlements, and relocation sites and schedules.
- Establish a participatory compensation and resettlement management strategy.
- Use and support Community Based Organizations, and be sensitive to issues concerning community consultation and participation.
- Establish procedures for grievance redress.

9.5.4 LAO POLICIES

In the Lao PDR, all key legislation relating to land (1996), water (1996), mining (1997), electricity (1997), and forestry (1997) takes account of the need to minimize adverse social and environmental impacts. The Mining Law (1997) also addresses the need to avoid economic hardship for project affected people. In addition, GOL is in the process of developing an Environmental Law that will make provisions for the need to consult with project affected people in the EA process. The GOL has also developed a draft resettlement policy (1997) which provides: "*that the population participates in the consultation, planning and design process of their new settlement and production areas*" (Article 1.2).²⁰

9.6 PARTICIPATION IN RAP PREPARATION PHASE

At this stage of the RAP preparation phase, the NNHP's JICA Study Team has carried out environmental and social studies prior to deciding on the project design, so that these factors are incorporated at the earliest possible stage in the project design itself. Public Involvement has been a part of the process from the very beginning, starting with a First General Workshop held in Vientiane November 26 and 27, 1998. All major stakeholders, some 89 persons from Government, NGOs and international associations, including from the project area itself, attended this workshop which presented the Inception and Initial Environmental Examination (IEE) Reports.

¹⁹ Asian Development Bank. 1998. *Handbook on Resettlement: A Guide to Good Practice*. Manila. Chapter 4.

²⁰ UNDP/ESCAP. 1997, p. 5.

This was followed by Site Workshops in the Upper and Lower Reservoir Areas March 16 and 17, 1999. The first Site Workshop was in B.Dong attended by local government officials and some 48 villagers from 12 affected villages. The second Site Workshop was in B.Sopyouk attended by local officials and some 23 villagers from the affected communities. Concerns registered in the Upper Reservoir included that inhabitants preferred not to move and wished for the lower dam alternative (FSL.318-320m). The primary message disseminated by the study team was that the Project is in its early study phase (the results were presented) and could possibly not be built, or if built not until about a decade of preparatory work took place. The Lower Reservoir residents want the conditions of resettlement to be summarized in contract documents with official signatures.

A second General Workshop was held closer to the Project Area in Pakxan on June 9-11 and in the downstream villages at B.Maungmai on June 23-24, 1999 at which draft EIA and the socioeconomic survey findings were presented as well as the initial preparations for the RAP.

In carrying out these public consultation workshops, the Project has assured that PI is integrated with the project decision-making at the earliest possible stages. The PI has also been integrated with the very beginning stages of the Environmental and Social Assessments. In practical terms, all four aspects of PI, information gathering, information dissemination, consultation, and participation have been aspects of the workshop experience.

The workshop objectives have been to have:²¹

- Better informed stakeholders about the Project study and possible future intentions;
- A better informed study team about the needs and concerns of the affected communities;
- Changes to the objectives and design of the Project;
- Outline of plans and agreements for how affected communities will participate in the RAP (and if) a decision is made to go ahead with the Project itself.

9.7 INTEGRATION OF PI WITH EIA AND SIA STUDIES

In January 2000, a decision will be made by GOL and JICA as to whether to go ahead with further studies for the NNPP and if so at what dam height. Once this latter decision is made on the project design, full EIA and SIA studies will be required for the Project. Public Involvement will be closely integrated with these studies, as illustrated below.

²¹ Based on UNDP/ESCAP. 1997, p. 35.

Table 9.1: Summary Five Steps Of The EIA/SIA Process

Steps	EIA
Step 1 <i>Screening, Scoping and Production of TOR.</i>	Based on information obtained through Initial Screening Report regarding environmental and social issues, the JICA study team will prepare a TOR for the EIA and SIA studies. A non-technical version of the draft, in local language, will be disseminated and discussed with community representatives, including NGOs (<i>Public Consultation Process Phase I</i>). Following these discussions, the proponent will revise the TOR, if required, and submit the finalized version of the EIA/SIA TOR to the HPO and JICA for clearance; multilateral agency requirements will be integrated into the review.
Step 2 <i>Conducting Study</i>	The JICA study team will undertake the EIA study according to the agreed TOR. Phase II of the Public Consultation will be conducted at this stage. Consultation with the community will be guided by the public consultation process.
Step 3 <i>Finalization of Reports</i>	Following the conclusion of the EIA, the JICA Study Team will prepare the EIASIA Report according to the agreed format (see below). In general, the EIA Report should include a Environmental Management Plan (EMP) and a Social Action Plan (SAP) and the RAP and possibly a IPDP. As the summary of the draft EIASIA Report will be disseminated to the communities concerned, as well as representative organizations, and discussed with these groups (<i>Public Consultation Process Phase III</i>) and their concerns addressed when finalizing the EIASIA Report.
Step 4 <i>Approval of Report</i>	The final EIASIA Report will be submitted to HPO and JICA for approval. In the course of evaluating the report, HPO and JICA and experts they appoint (Environmental Assessment Committee), may make field visits and hold public hearings, if required, to advise/make a decision on the EIASIA Report. HPO and JICA can approve the report or seek additional information from the JICA Study Team. Once they are satisfied with the EIA/SIA Report's conclusions and recommendations, approval can be granted.
Step 5 <i>Monitoring of Implementation</i>	There will be continuous monitoring during Project implementation and the operational phase by regulatory authorities as they agree, and possibly also by community groups with support from NGOs.

Table 9.2: Format of the Environmental Impact Assessment Report (EIA/SIA Report)

Executive Summary	Purpose, Process, Content and Structure of Report
Part I	<p><i>Environmental Impact Assessment</i></p> <ul style="list-style-type: none"> • Project Description • Existing Environmental and Baseline Survey • Prediction of Impacts • Analysis of Alternatives • Recommended Option • Environmental Management Plan • Mitigation Measures <ul style="list-style-type: none"> ◊ Implementation Monitoring Plan ◊ Institutional Responsibility Framework ◊ Risk Allocation
Part II	<p><i>Social Assessment</i></p> <ul style="list-style-type: none"> ◊ Census and Socioeconomic Conditions ◊ Social Assessment Summary ◊ Resettlement Action Plan (RAP) ◊ Indigenous Peoples Development Plan (IPDP), if required ◊ Any other social mitigation planning deemed appropriate
Annexes	<p>Bibliography, Data Sources, Raw Data</p> <p>List of Document Papers</p> <p>Minutes of Public Consultations</p>

Public Consultation Process. A credible Public Consultation Process is crucial to the successful development of the Project, including the preparation of an acceptable EMP, SAP, RAP and IPDP, if required. As part of the feasibility process for the Project, public consultations in the project area will be conducted separately during Step 1 (Scoping), Step 2 (Study), and Step 3 (Finalization of EIA/SIA Report). The Study Team may engage an NGO or subcontract to a local consultant as part of the Consultant team to design and facilitate the implementation of the Consultation Process. The Consultant/NGO should continuously re-assess the *Public Consultation Process Strategy* as feedback is received from information dissemination and consultation. The Consultant/NGO will:

- *Identify The Stakeholders* - directly affected people, representative Community Based Organizations (CBOs) and NGOs, local media correspondents, traditional

leaders, provincial and divisional government agencies, etc., and assemble them in a body that represents the stakeholders. The group should meet periodically during the process of the EIA/SIA study to discuss the emerging findings of the assessments;

- Assist the Stakeholder Group in preparing and disseminating *Public Information* in the appropriate local language (for instance, Hmong romanized script in the Lower Reservoir), including the types of impacts that may be anticipated, and the scope of the draft TOR for the EIA/SIA and Resettlement Assessment, and the summary of the draft EIA/SIA Report and proposed mitigation measures. Use may be made of non-technical brochures, leaflets, posters, briefings and presentations, public meetings (including visual aids), involvement of the media and provision of public access to the reports;
- Assist the Stakeholder Group in establishing mechanisms and conduits for *Consulting* communities and representative NGOs when undertaking the steps and tasks described in the EIA/SIA TOR, and TORs for the RAP and IPDP (if required). These will include inputs into the scoping of the EIA/SIA TOR, conducting socioeconomic and community opinion surveys, evaluating alternatives, formulating entitlement packages and drafting the EMP and SAP, as well as of the RAP and IPDP (if required) for the final EIA/SIA Report. An appropriate number of women staff will be necessary to assure that gender issues are adequately included and that affected women are also appropriately informed about the RAP, especially in the Hmong communities;
- *Keep A Record Of Information And Consultation Activities* - type of activity and mechanisms used, date and location, names of groups and individuals invited, types of attendees, issues raised, responses given and the impact upon subsequent decisions; and
- *Track the Progress of Implementing EMP, SAP, RAP and IPDP (if required)* during facility development and operation, through community monitoring activities.

In addition to copies of the EIA/SIA Report being made available in public locations within the Lao PDR, in accordance with accepted international procedures, the EIA/SIA Report will also, when formally received for HPO and JICA review, be placed in Project Public Information Centers (PICs) in Vientiane and in the Project Area, as well as made public through an internet website.

9.8 PARTICIPATION IN RESETTLEMENT PLEMENTATION

To ensure the Project Affected Persons (PAPs), their representatives and the local authorities in the affected areas fully understand the details of the RAP, they will be informed about the compensation and rehabilitation assistance being planned during early stages of RAP implementation and throughout.

The public consultation process begun during the Project and RAP preparation stage will continue during the RAP implementation through a PI Program that will be designed as an integral part of the RAP. Village-level consultations organized by the

RMU and RO in collaboration with District and Village level Resettlement Working Groups will inform the PAPs about the RAP schedule and the *due process* afforded them in its implementation. These meetings will be held before and during RAP implementation according to a pre-determined schedule and will obtain feedback about the local officials and people's concerns and ideas about the RAP. This input will be integrated into policy and into adjustments of the RAP as required.

The PI process of direct consultation with the PAPs and soliciting their active participation in the RAP will minimize the risk for Project delays due to grievances and enable the Project to design the RAP as a Development Program suitable to the needs and priorities of the affected communities. The objectives of the PI program will be to:

- Provide full information about the proposed Project and the RAP;
- Collect information about the needs and priorities of the PAPs as well as information about their suggestions for the RAP policy and proposed activities;
- Obtain the cooperation and participation of the PAPs as well as the resettlement host communities and the downstream communities and those surrounding the reservoir that may be included in the Social Action Plan (SAP) and planned Regional Development Programs (reservoir fisheries, agro-forestry, dairy, etc.); and
- Ensure proper implementation of all activities related to land acquisition and the RAP.

As a supplement to the PI Program, a RAP Public Information Booklet will be prepared by the Project in consultation with the PAPs and local authorities. This will be distributed in Lao and in the Hmong romanized script and made available in PICs in the Project Area (within the reservoir and also downstream of the project and in resettlement host areas, as appropriate).

The general content of the RAP Public Information Booklet will include:

- A brief description of the Project;
- Types of Impacts;
- Basic compensation policy, procedures and entitlements;
- Land acquisition process (including for those from whom land will be temporarily taken, and along transmission lines and access roads);
- Project and RAP implementation schedule;
- Description of Resettlement Sites and other options (for instance, self-resettlement);
- Grievance and Redressal Mechanisms
- Rehabilitation and Livelihood Development Programs
- Social Action Plan (SAP) and Regional Development Programs

The PI Program will continue after the RAP implementation into the Monitoring and Evaluation (M&E) phase, at which point the affected communities will be consulted as part of the process about the effectiveness of the RAP in achieving its objectives and regarding possible mitigation measures to make up for any shortcomings.

CHAPTER - 10

OTHER ISSUES

10. OTHER ISSUES

10.1. GRIEVANCE AND APPEALS

Even among well-planned resettlement programs, individual or village complaints are bound to arise. To ensure the basic rights and interests of resettlers are protected, concerns are adequately addressed and entitlements delivered, a grievance procedure will be designed for the project. The Grievance and Appeals procedure will be developed during preparation of the RAP. At present, an established procedure has been developed by the NT2 and will be the starting point for the NNPP.

A Project Grievance Committee (PGC) will be established and will be headed by a senior provincial official. Other members of the PGC will come from the Justice Department, the Lao Women's Union, the Ethnic Council and one member from the RC. Justice departments at the district and provincial levels are responsible to resolve various village conflicts and property disputes, while the LWU and Ethnic Council are active in solving problems faced by village women and the elderly. The PGC will have the capacity to deal with complaints and grievances brought to it by claimants.

If an affected person is not satisfied with the compensation package or if, for any reason, the compensation does not materialize according to the agreed schedule, he or she will have the right to make a claim. There will be three steps to resolve grievances.

The first step is to make a complaint to the RO at the DRWG level. Since these offices will have representatives from relevant departments, they will be in a good position to resolve issues brought to their attention by affected individuals. They must respond within 15 days.

The second step will involve taking the claim to the RMU if there is no satisfaction gained from the DRWG. The RMU will be obliged to respond in writing to the claimant within 15 days of receipt of claim, stating the reasons why the claim is accepted or rejected. The DRWG and RMU will be responsible to review a claim within the context of the existing policy, regulations, procedures and entitlement limits. They will not be able to award compensation that goes beyond what is established as a matter of practice or what would be outside the limits of the budgets within which they will be operating.

If the above action does not yield any results, then the claimant can bring his case to the PGC. The PGC, after hearing the complaint from the affected individual or village, may carry out an investigation, arrange meetings with responsible agencies (such as RMU and RO), or resolve the dispute on the spot. The PGC will have to maintain a public book showing all claims received and decisions made, which must be made within 30 days.

Beyond the PGC, access to the Court will be the last resort. It will be in the interest of the RMU to resolve issues before they are brought to the PGC, as a large number of complaints would reflect badly on the RMU. In the Lao context, there is a tradition of informal dispute resolution, and this no doubt will be used by the RMU. The RMU will publicize to the villagers the existence and the procedures for using the grievance process.

A conflict between RO and RMU would in the first instance be resolved at the RC level. If this is not acceptable to either party, then the Vice-Prime Minister responsible for the Project will review the matter. If still no agreement is reached, the OC and GOL will each appoint mutually acceptable independent arbitrators who will review the issue and render a decision. A member of the Project's Panel of Experts (POE) could, for instance, be one of the arbitrators. As final recourse, the Project provisions as set up in the Concession Agreement would apply, involving internationally recognized arbitration procedures.

10.2. MONITORING

Monitoring will be carried out to ensure that the resettlement implementation is successful and that the villagers materially improve their livelihood after resettlement. Monitoring will be both internal and external. Internal monitoring will focus on the physical progress of resettlement implementation against the schedule in the approved RAP. Independent external monitoring will be on the change of livelihood and standard of living among the relocated people. The basic approach is to follow a sample of households over time in order to measure how they improve their livelihood after relocation.¹

Internal Monitoring and Supervision

The RO will be responsible for monitoring of the infrastructure construction for which it is responsible (including civil and irrigation engineering aspects of the livelihood packages, particularly irrigated paddy development) so that relocation can take place on time. It will report regularly to the RMU and the RC.

The RMU will monitor progress in the preparation of the villagers for the physical move, the move itself, the post move settling-in phase and the livelihood and community development. A series of reporting tables will be developed. This will indicate the activities completed, funds allocated and spent, relocations completed, development tasks completed, and community activities completed. These reporting cards will be collected by each village and district working group and aggregated by the RMU.

¹ NTEC 1998, Chapter 6.

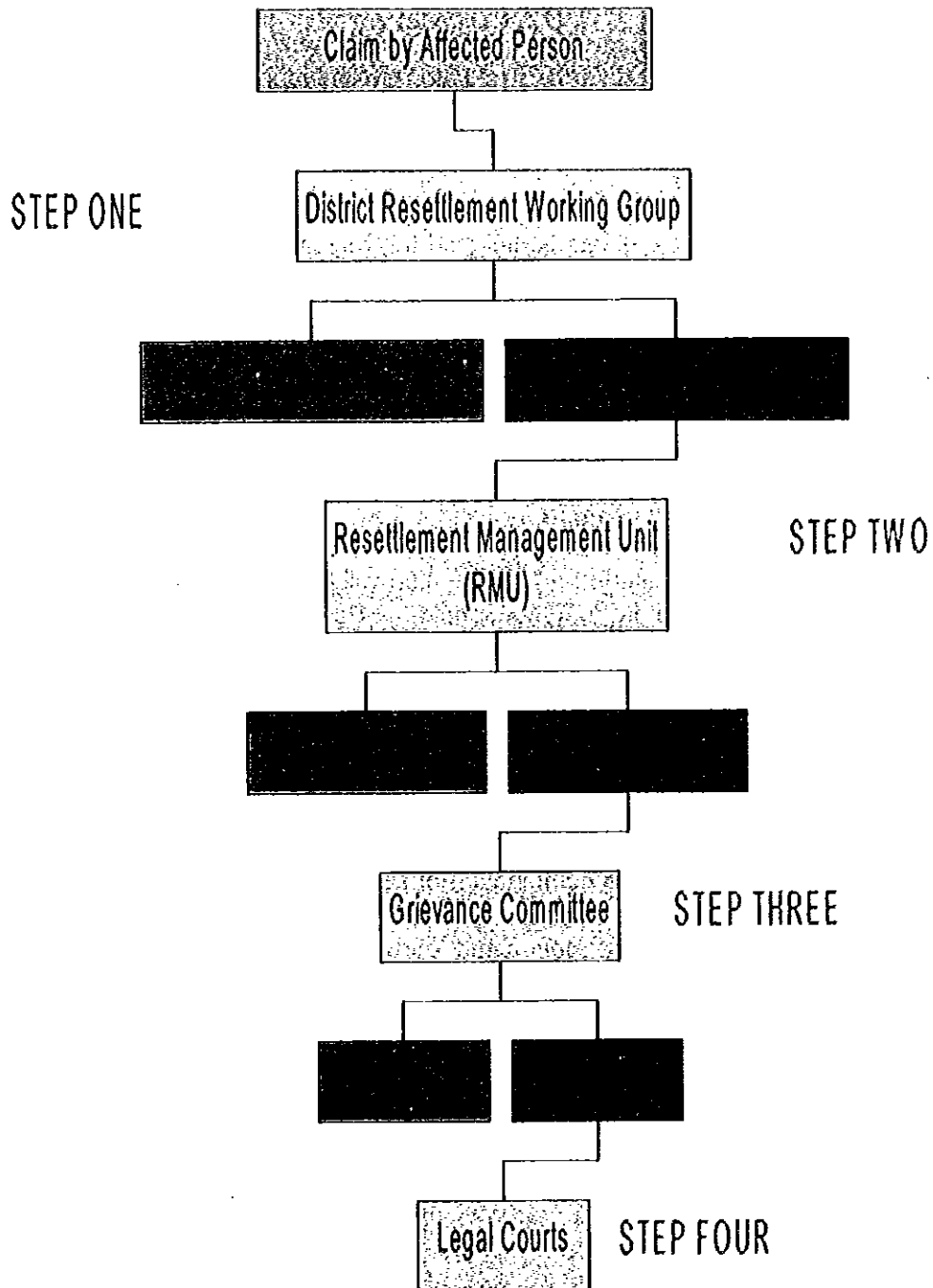


Figure 10.1 NNHP RAP Grievance Procedure

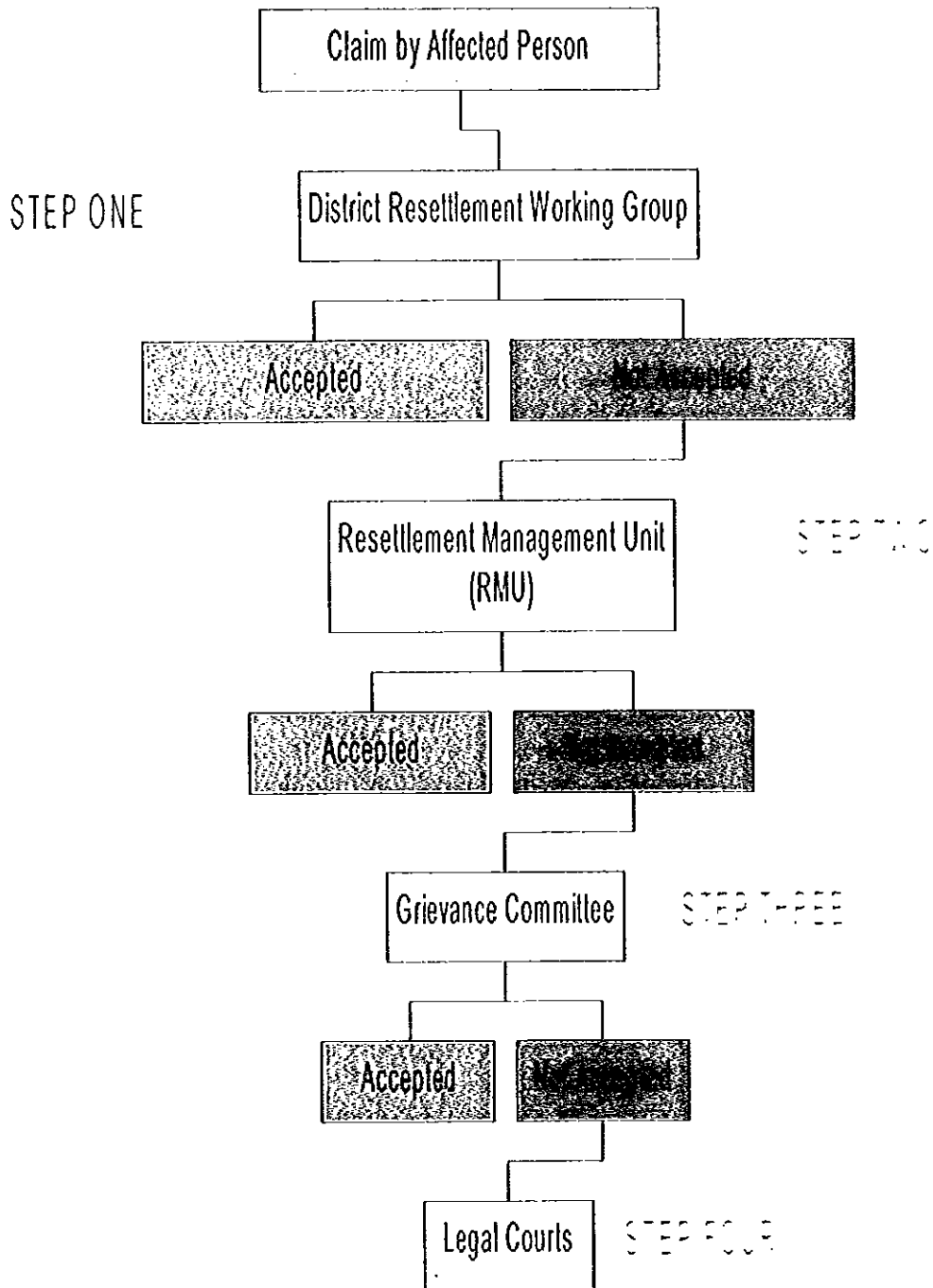


Figure 10.1 NNHP RAP Grievance Procedure

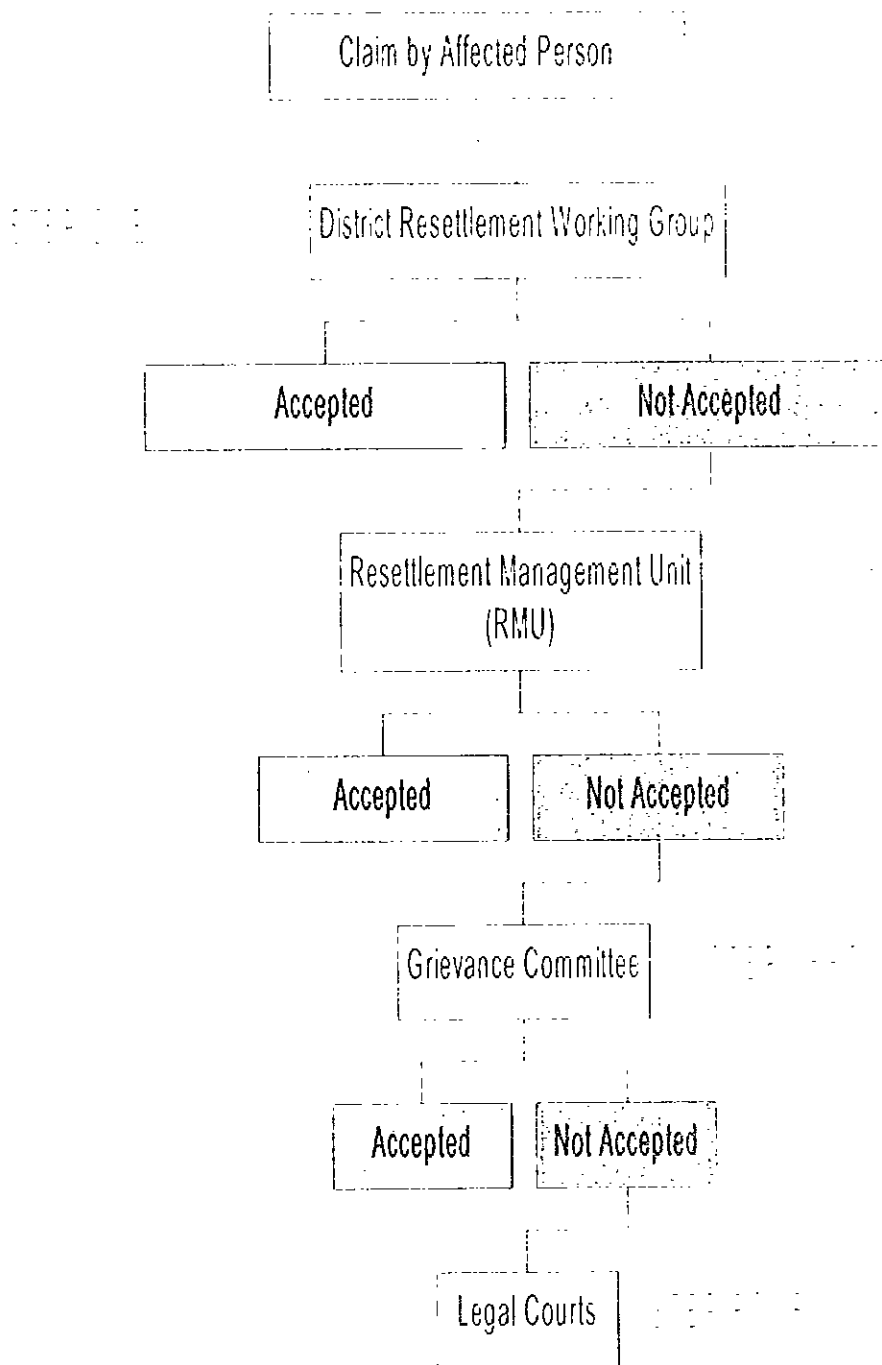


Figure 10.1 NNHP RAP Grievance Procedures

Independent Monitoring

The main objective of the Project's resettlement policy will be to ensure that Project Affected Persons are better off after resettlement. Achievement of this objective may be difficult to judge by those implementing the RAP because they will be so involved in it. To overcome this, monitoring and evaluation by an independent institution, external monitoring, will be conducted. The candidate organization or individuals will have extensive experience in social surveys and be familiar with the local language and socioeconomic conditions.

To ensure that the best candidate is selected the recruitment of external monitors will follow a competitive bidding process. A request for proposals will be advertised and sent to potential candidates, including NGOs and social science institutions. Based on a review of their work plan and qualifications, the most suitable organization will be selected to carry out the external monitoring and evaluation work. Selection will take place upon Project approval, by the RO and RMU. The cost of external monitoring will be included in the RMU budget. Organizationally the external monitoring is not unlike the Panel of Experts, in that it will provide independent advice on progress. The external monitors will report to the RC.

The main focus of the monitoring and evaluation will be on the changes in social and economic conditions of individual households. Based on existing socioeconomic characteristics of the villages the type of rehabilitation and relocation schemes to be implemented, a set of indicators will be developed for affected households and villages, including income level, sources of income, food sufficiency, basic health and educational conditions, women's status, and so forth. The monitoring and evaluation will last 5-10 years or until it can be shown that the resettlement objectives have been fully achieved.

The methodology will include a combination of sample household survey, focus group interviews and participatory discussion. A baseline socioeconomic survey of a sample of affected households will be conducted early on in the RAP preparation. The resettlement monitoring and evaluation work will start at the same time as implementation.

10.3.REPORTING

Internal Reporting

By comparing the progress on the ground with the implementation schedules the RMU can identify areas of weak implementation and take remedial action. For problems requiring decisions from higher authorities the RMU will report to the RC. The RMU and RO will each have monitoring units. Reports from both sources will be integrated to provide an overview.

Project Resettlement Office's Reporting Responsibility

The RO will be responsible for monitoring of the infrastructure construction for which it is responsible (including civil and irrigation engineering aspects of the livelihood packages, particularly irrigated paddy development) so that relocation can take place on time. It will report regularly to the RMU and the RC.

Independent Monitoring Organization's Reporting Responsibility

An evaluation report will be prepared each year following the field survey and will be submitted to the RC and the main funding agency or agencies. Such a report may, for instance, show that some families are doing very well for identified reasons and that some other families are doing poorly for certain reasons. Such findings can then be used by the RMU to redirect or adjust its programs.

10.4. POLICY OF ENTITLEMENTS

The RAP will include information on:

- National, state, and local Laws and Rules on land acquisition and resettlement applicable and relevant to the NNHP;
- Eligibility policy for PAPs, criteria for different categories of PAPs, cut-off dates for eligibility;
- Reproduction of Entitlement Matrix for Policy Framework, retaining the different types of loss/impacts applicable to the NNHP (see format given below).

10.5. ENTITLEMENT MATRIX

A basic outline for an Environmental Matrix illustrating the above is presented below:

Type Of Loss/Impacts	Definition of Entitlement	Definition of Entitled Person/Unit	Application Guidelines	Organization(s) Responsible

10.6. ENVIRONMENTAL IMPACTS AND RESTORATION

In addition to a population carrying capacity survey of the identified resettlement sites, the Project will carry out EIA studies of the sites. The NT2 RAP's Appendix D provides an outline for the EIA of that project's resettlement sites and provides a good starting point for designing a similar study to assure that the carrying capacity of the resettlement areas is not exceeded.²

The EIA will identify the beneficial and adverse impacts arising from the Project's resettlement activities in terms of both the natural and human environment and will propose mitigative measures to minimize adverse impacts while maximizing the beneficial impacts. The EIA will cover, *inter alia*, the effect on forest resources, erosion and soil degradation, overgrazing, use of drawdown areas, natural wildlife and fisheries, surface water quality, groundwater, and spontaneous resettlement to take advantage of economic opportunities brought by the Project development.

An important aspect of the EIA in northern Laos will be a reconnaissance survey of UXO and defoliants contamination at the resettlement sites. The latter will also be important for the reservoir fisheries livelihood package.

10.7. UXO AND DEFOLIANT RECONNAISSANCE SURVEYS

The Lao People's Democratic Republic suffered intense ground battles as well as extensive bombing during the Indo-China War era, especially during the period from 1964 to 1973. Such fighting left a legacy of widespread contamination by unexploded ordinance (UXO), that still cause death and injury more than 20 years after the war ended. Anti-personnel bomblets are the most common type, found in some 1,533 villages. Large bombs, 100 to 1,000 kilograms have been found in 1,156 villages; mortar bombs in 782 villages; and artillery and armored vehicle projectiles in some 555 villages. Landmines are found in all provinces, with ongoing contamination reported in 214 villages. Data has been collected on some 10,649 UXO related accidents since 1973. Most such accidents occurred up until 5 years after the war, but they still occur at a rate of 200 per year. Even 20 years after the war, there is still one UXO accident on average every 2 days.³ Agent Orange and other defoliants are also reported to have been widely used in northern Laos.

Some 1,100-sq. km of land is, for instance, still contaminated by UXOs Xingkhouang Province. This includes some 645km² of actual or potential lowland rice, some 250km² of actual or potential upland rice, and 220km² of pasturelands. On account of this UXO contamination, farmers were reluctant to expand irrigated rice production.⁴

² NTEC 1998.

³ Handicap International. 1997. *Living with UXO, Final Report: National Survey on the Socio-Economic Impact of UXO in Lao PDR*. Report prepared for the Lao National UXO Programme (UXO Lao), Ministry of Labour and Social Welfare. Vientiane: UXO LAO.

⁴ Handicap International. 1997a. *Living with UXO, Final Report: National Survey on the Socio-Economic Impact of UXO in Lao PDR*. Report prepared for the Lao National UXO Programme (UXO Lao), Ministry of Labour and Social Welfare. Vientiane: UXO LAO.

In Xaysomboon Special Zone (*Khelphiset*) Hmong immigrants moved into the area after the Indo China War and occupied lands abandoned by Lao Loum during the war, or else they cleared extensive forest land for new settlements, taking up irrigated rice cultivation and fishing. GOL encouraged this to reduce shifting agriculture. In some cases, however, as security has improved or confidence grown that UXO contamination has abated, some Lao Loum have migrated back into the area and claimed their old lands. This has led to resource conflicts, with Hmong returning to shifting agriculture in the nearby areas. Other villagers who previously held lands in Xaysomboon are still afraid to return because of UXO contamination and general concerns over security.⁵

The Xe Kaman 1 is a case in point where resettlement has apparently been carried out without regard to the UXO problem. It is reported that no assistance has been given on clearing land that is located on the old Ho Chi Minh Trail and is believed strewn with UXO. "Despite a nationwide program to identify and remove UXO from areas such as this, no assistance is being given, forcing those resettled to risk their lives as they clear land for their houses and gardens. All that has been provided to the relocatees are some roofing materials."⁶

The national survey carried out by Handicap International for UXO LAO made clear recommendations that UXO reconnaissance, clearance and public education be carried out for any resettlement activity, and it is imperative that this be included in any resettlement policy adopted by GOL.⁷

It is recommended that village relocation schemes investigate the level of contamination by UXO of any potential new settlement sites. If UXO is suspected, authorities should undertake some kind of reconnaissance, or if necessary, clearance of those areas before resettlement occurs. During the survey, a number of district and provincial officials expressed concern over the relocation of people into areas that are contaminated by UXO. They informed the team that they believed these areas presented a risk to the relocated villages. These villagers are not aware of the specific difficulties they may encounter with UXO in that area. They may never have encountered UXO and do not have any concept of the problems it would present to them.

In these relocation sites, one of the major activities that resettled people will have to undertake is the opening and establishment of new fields. Opening new land for lowland paddy rice cultivation was a major cause of accidents occurring in the agricultural sector. This involves a large amount of intensive labor to cut down bushes and uproot trees, remove topsoil and build canals and retaining walls. All of these activities are potentially of very high risk and could result in an increase in accident

⁵ BCEOM. 1999. *Final Nam Ngum Watershed Management and Development Strategic Framework*. April 15. For Ministry of Agriculture and Forestry, Center for Protected Areas and Watershed Management. Asian Development Bank TA 2734-Lao, Nam Ngum Watershed Management. In Association with SEATEC and SEMED. English, Richard. 1998. *Socio-Economic Profile of the Nam Ngum Watershed*. Vientiane: Ministry of Agriculture and Forestry, Department of Forestry, Center for Protected Areas and Watershed Management. Asian Development Bank TA 2734-LAO. Nam Ngum Watershed Management. May.

⁶ International Rivers Network. 1999. p. 59.

⁷ Handicap International. 1997. *Province and District Report – Province of Xieng Khouang: National Survey on the Socio-Economic Impact of UXO in Lao PDR*. Report prepared for the Lao National UXO Programme (UXO Lao), Ministry of Labour and Social Welfare. Vientiane: UXO LAO. pp. 41-42, 59.

figures. Generally speaking farmers are very concerned by UXO contamination in agricultural land. Frequent reports were made asking for these areas to be cleared of UXO, so that farmers could feel secure working in their fields or opening up new areas for cultivation.

Projects that include labor-based road building, construction of school and hospital buildings or irrigation schemes need to assess the risk and the cost of clearance to their planned projects. Reports during the survey indicated that there could be potential problems with some of these projects when working in contaminated areas. Labor-intensive projects have reportedly had large problems, with villagers stopping work due to fear of accidents with UXO.

There are a number of agencies in the Lao PDR for doing this work. Milsearch is a commercial agency that has already done reconnaissance and clearance work for hydro and irrigation projects in the Lao PDR, and MAG is an NGO that has carried out both UXO clearance and educational outreach.⁸ Educational efforts may use a curriculum developed by CONSORTIUM in Xiengkhouang, which stresses Community Awareness of the 5-10 most dangerous activities:

- Defusing UXO
- Playing with or throwing UXO
- Making a fire to destroy rubbish
- Weeding in agricultural land
- Making a fire to clear a field
- Walking along paths or roads
- Making a fire for cooking
- Fishing with UXO or explosives
- Plowing agricultural land
- Keeping or grazing animals

A reconnaissance of defoliant contamination will also be required in the proposed reservoir area to assess any possible impacts on the reservoir fisheries livelihood package.

⁸ Milsearch – BPKP, EOD Joint Venture Limited, Unit 13, 165 That Luang Tai, PO Box 1321, Tel: 413885/414473. Mobile: 020-512051. Mines Advisory Group (MAG), 208 Ban Sibounhuang, Vientiane, (856 21) 222 983, Fax: (856-21) 217 621, PO Box 4660.

Figure 10.2 UXO Distribution in Lao PDR

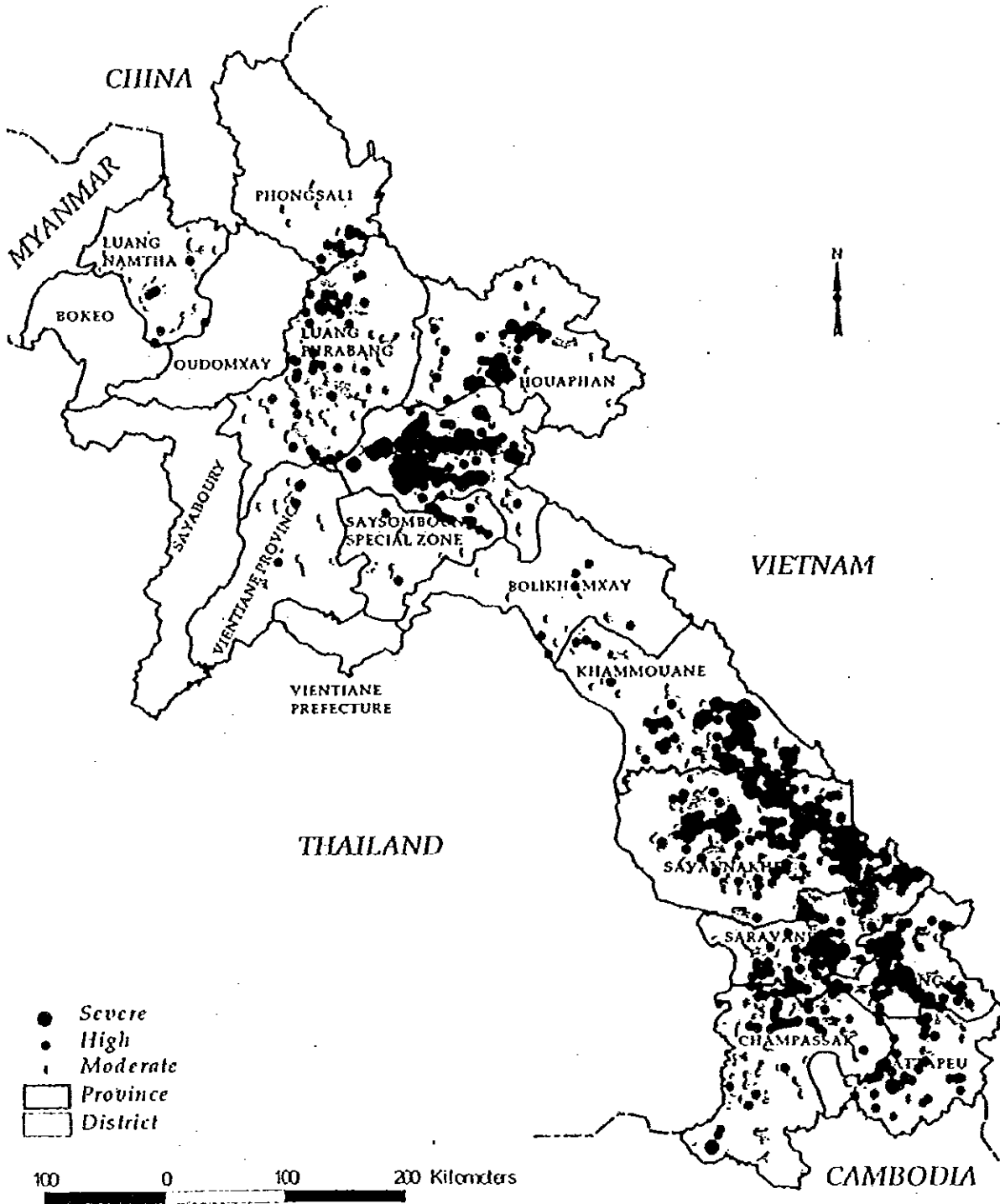


Figure 10.3 UXO Impacts in Xaysomboon

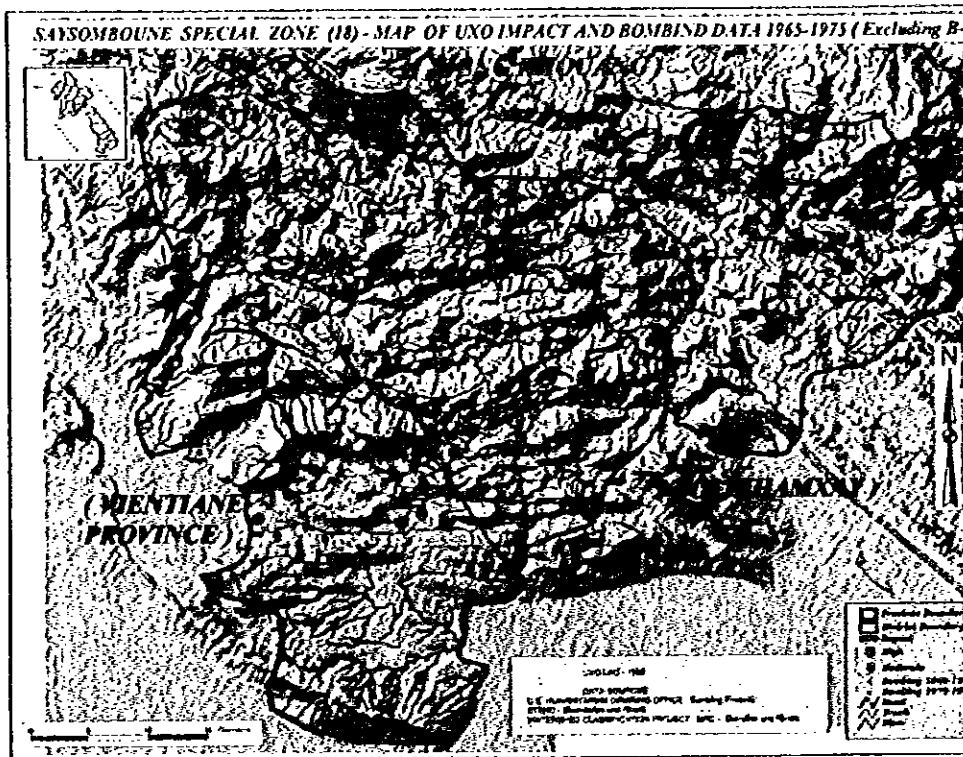


Figure 10.3 UXO Impacts in Xaysomboun

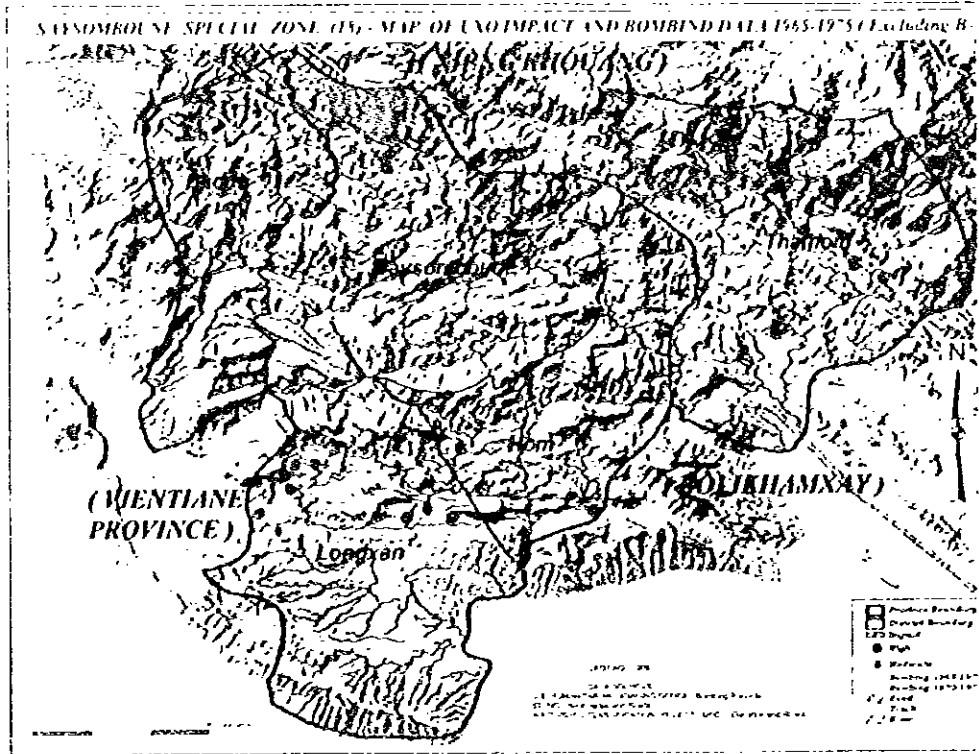


Figure 10.4 UXO Impacts in Xieng Khuang Province

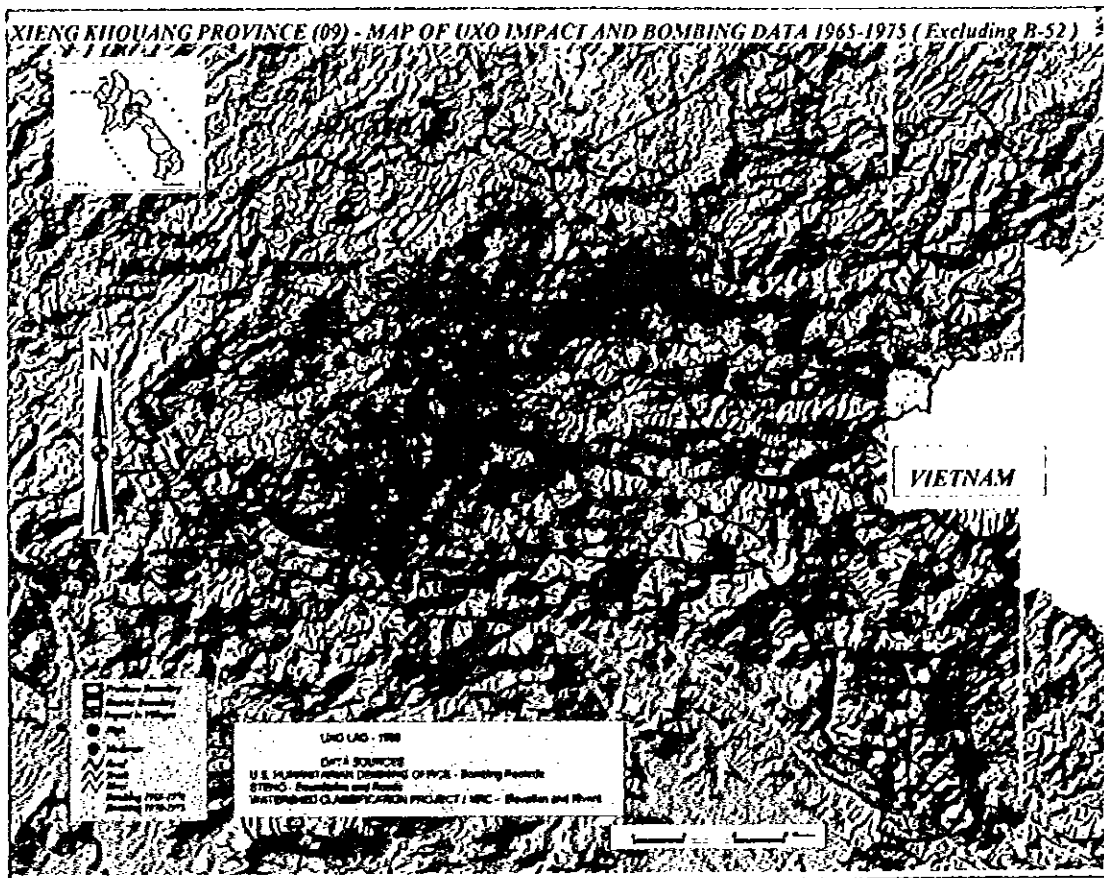


Figure 10.4 UXO Impacts in Xieng Khuang Province

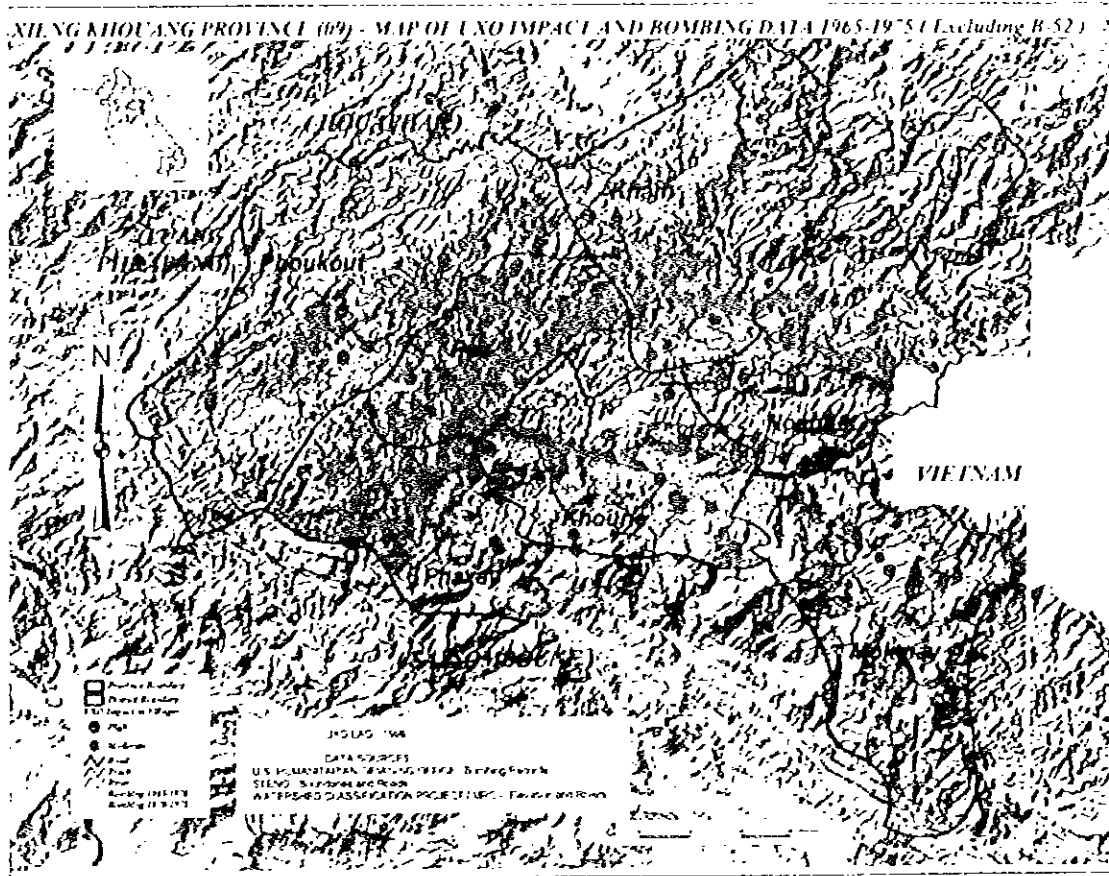


Figure 10.5 UXO Impacts in Bolikhamxay Province

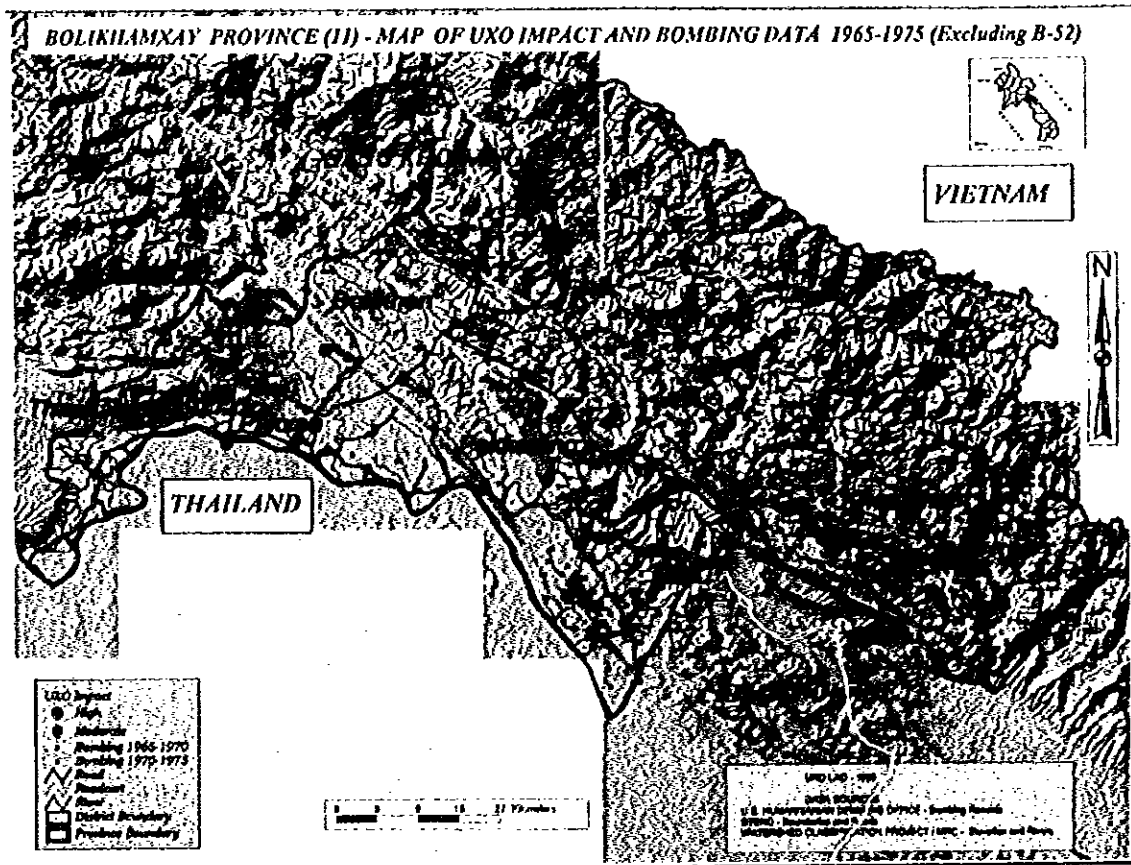
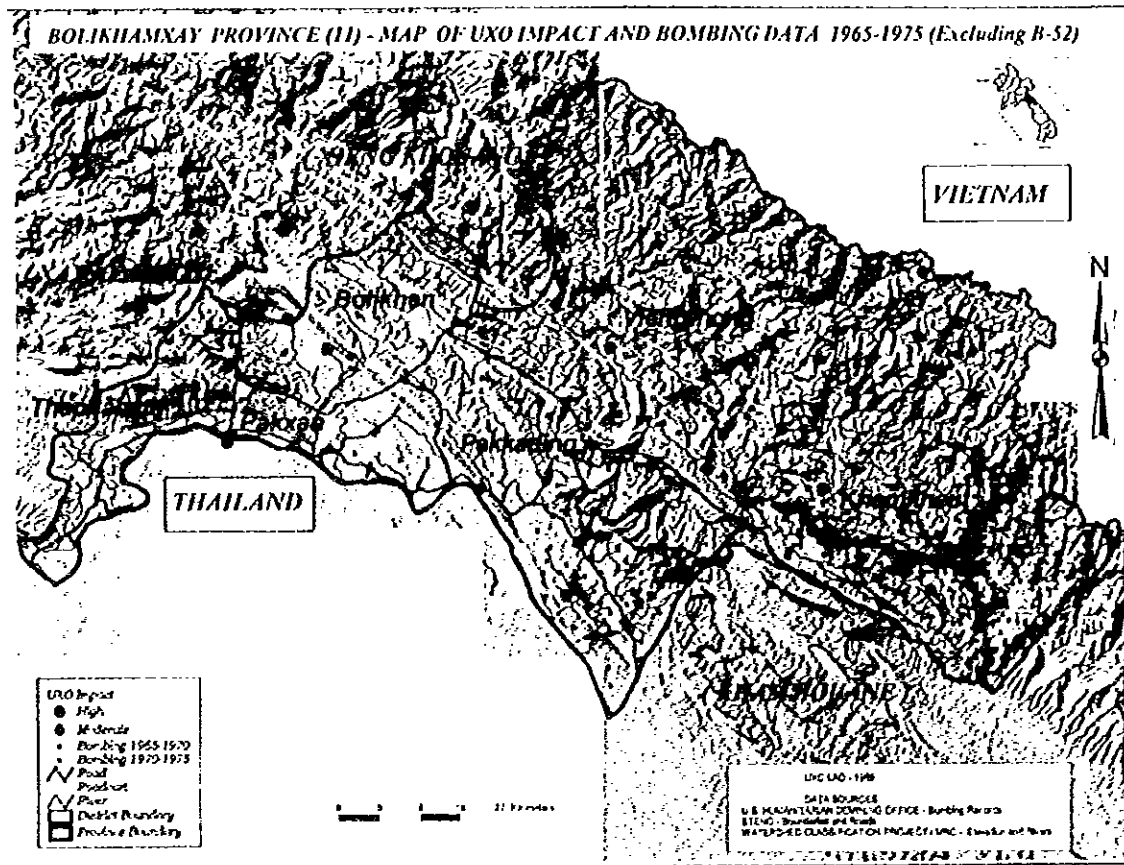


Figure 10.5 UXO Impacts in Bolikhamxay Province



ANNEX - 1

SELECTED RESOURCES DOCUMENTS

ANNEX - 1

SELECTED RESOURCE DOCUMENTS

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ANNEX - 2

PERSONS MET

ANNEX - 2

PERSONS MET

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Mr. Suemkham Thoumimavongsa, JICA Study Team Counterpart for Natural Environment
Mr. Anousak Phongsavath, JICA Study Team Counterpart for Social Environment
Mr. Hiroshi Murashige, JICA Hydropower Development Advisor
Mr. Tatsuya Abe, JICA Hydropower Development Advisor
Mr. Phaychith Sengmany, Deputy Director, Department of Geology and Mines
Mr. Vilay, GIS Specialist, Department of Geology and Mines

Ministry of Communications & Transport

Mr. Richard J. Tomkins, Team Leader, ADB Management Information System
Mr. Souksakhone, UNDP/ILO Xieng Khouang Integrated Rural Access Planning (IRAP)

Ministry of Agriculture and Forestry

Ms. Kaysone Insisienmay, Deputy Director, National Program for Shifting Cultivation Stabilization

Japan International Cooperation Agency (JICA)

Mr. Takahata Tsuneo, Resident Representative
Mr. Aoki Makoto, Resident Representative
Mr. Nobuaki Miyata, Deputy Representative
Mr. Mikio Masaki, Project Formulation Advisor
Mr. Sophonh Kousonsavath, Programme Officer
Mr. Nobuhiro Kumagai, Assistant Resident Representative

National Office of Science, Technology and Environment (STENO)

Mr. Soukata Vichit, Director General
Ms. Viengsavanh Douangsavanh, Dept Director, Department of Integrated Natural Resources and S&T Information

Electricite du Laos

Mr. Somphone Simmalavong, Acting Projects Manager, ADB-financed Power Transmission and Distribution Project (Loan No. 1558-LAO (SF))

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Mr. Ronald E. Hawkins, Manager
Ms. Helen Hawkins, Office Manager

Phu Bla Mining Ltd.

Mr. Sisouphane Thaavong, Office Manager, Accountant

UNDP/LAO PDR AIDS TRUST

Dr. Changhone Khamsibounheuang, Manager

Mr. Phoneprasith Vongsay, Programme Development Adviser

PSI (Population Services International)

Mr. Barry C. Whittle, Country Representative

Mr. Robb Butler, Deputy Country Representative

UXO LAO

Mr. Phil Bean, Chief Technical Adviser Mobile:

Mr. Phoukhong Vongsackda, Public Information Office

Ms. Louise Sampson, Public Information Office

Mr. Vilaysouk Bouamanivong, GIS Specialist

Nam Ngum Watershed Management, ADB TA 20734-LAO

Ms. Chris Flint, Agricultural Systems Expert

Bolikhamxai Province

Mr. Leuam Sonsivilay, Office Chief, Provincial Cabinet

Mr. Khamsene Singhadouang Pangna, Chief Service of Industry and Handicraft's

Mr. Phiehith Sayaphone, Director of Agriculture and Forestry

Mr. Phathachone Keophouthavong, Chief of Fisheries Department

Bolikhhan District, Bolikhamxai Province

Mr. Chongmou Yang, Deputy Chief, Bolikhhan District

Mr. Keunpmau, Head of Village, B. Hatheun

Mr. Tao, Secretary, B. Somseum

Pakxan District, Bolikhamxai Province

Mr. Khamphet Phanyanoun, Head of Pakxan District

Ms. Khambay, Owner of Fish Hatchery Ponds (Private Citizen), B. Non Oudsum

Xaysomboon Special Zone

Mr. Sibountham, Deputy Governor

Dr. Kamchan, National Assembly

Taviang District, Xaysomboon Special Zone

Mr. Boun leng, Chief of Kethsum.Pathana (KP)

Mr. Khamvene, Prime Minister's Office

Mr. Duong, Secretary, B. Dong,

Mr. Vansi, Secretary, B. Nahong

Mr. Bounsouk, Chief, B. Naxay

Mr. Bonmu, Secretary, B. Naxay

Mr. Don, Chief, B. Vienthong

Hom District, Xaysomboon Special Zone

Chief, B.Sopyouk

Others

Ms. Kesone Sayasane, Gender Specialist, Consultant

ANNEX - 3.1

WB POLICIES

(OD 4.30 INVOLUNTARY RESETTLEMENT)

ANNEX - 3.1 [World Bank Policy] Involuntary Resettlement

OD 4.30 June 1990

Introduction

1. This directive describes Bank 1/ policy and procedures on involuntary resettlement, as well as the conditions that borrowers are expected to meet in operations involving involuntary resettlement. 2/ Planning and financing resettlement components or free-standing projects are an integral part of preparation for projects that cause involuntary displacement. Any operation that involves land acquisition or is screened as a Category A or B project for environmental assessment purposes 3/ should be reviewed for potential resettlement requirements early in the project cycle (para. 20).

2. Development projects that displace people involuntarily 4/ generally give rise to severe economic, social, and environmental problems: production systems are dismantled; productive assets and income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community structures and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished. Involuntary resettlement may cause severe long-term hardship, impoverishment, and environmental damage unless appropriate measures are carefully planned and carried out. 5/

Policy Objectives

3. The objective of the Bank's resettlement policy is to ensure that the population displaced by a project receives benefits from it. Involuntary resettlement is an integral part of project design and should be dealt with from the earliest stages of project preparation (para. 28), taking into account the following policy considerations:

- (a) Involuntary resettlement should be avoided or minimized where feasible, exploring all viable alternative project designs. For example, realignment of roads or reductions in dam height may significantly reduce resettlement needs.
- (b) Where displacement is unavoidable, resettlement plans should be developed. All involuntary resettlement should be conceived and executed as development programs, with resettlers provided sufficient investment resources and opportunities to share in project benefits. Displaced persons should be (i) compensated for their losses at full replacement cost prior to the actual move; (ii) assisted with the move and supported during the transition period in the resettlement site; and (iii) assisted in their efforts to improve their former living standards, income earning capacity, and production levels, or at least to restore them. Particular attention should be paid to the needs of the poorest groups to be resettled.
- (c) Community participation in planning and implementing resettlement should be encouraged. Appropriate patterns of social organization should be established, and existing social and cultural institutions of resettlers and their hosts 6/ should be supported and used to the greatest extent possible.
- (d) Resettlers should be integrated socially and economically into host communities so that adverse impacts on host communities are minimized. The best way of achieving this integration is for resettlement to be planned in areas benefiting from the project and through consultation with the future hosts.
- (e) Land, housing, infrastructure, and other compensation should be provided to the adversely affected population, indigenous groups, 7/ ethnic minorities, and pastoralists

who may have usufruct or customary rights to the land or other resources taken for the project. The absence of legal title to land by such groups should not be a bar to compensation.

Resettlement Planning

4. Where large-scale 8/ population displacement is unavoidable, a detailed resettlement plan, timetable, and budget are required. Resettlement plans should be built around a development strategy and package aimed at improving or at least restoring the economic base for those relocated. Experience indicates that cash compensation alone is normally inadequate. Voluntary settlement may form part of a resettlement plan, provided measures to address the special circumstances of involuntary resettlers are included. Preference should be given to land-based resettlement strategies for people dislocated from agricultural settings. If suitable land is unavailable, nonland-based strategies built around opportunities for employment or self-employment may be used.

Plan Content

5. The content and level of detail of resettlement plans, which will vary with circumstances, especially the magnitude of resettlement, should normally include a statement of objectives and policies, an executive summary, and provision for the following:

- (a) organizational responsibilities (para. 6);
- (b) community participation and integration with host populations (paras. 7-10);
- (c) socioeconomic survey (para. 11);
- (d) legal framework (para. 12);
- (e) alternative sites and selection (para. 13);
- (f) valuation of and compensation for lost assets (paras. 14-16);
- (g) land tenure, acquisition, and transfer (para. 17);
- (h) access to training, employment, and credit (para. 18);
- (i) shelter, infrastructure, and social services (para. 19);
- (j) environmental protection and management (para. 20); and
- (k) implementation schedule, monitoring, and evaluation (paras. 21-22).

Cost estimates should be prepared for these activities, and they should be budgeted and scheduled in coordination with the physical works of the main investment project.

Organizational Responsibilities

6. The responsibility for resettlement rests with the borrower. The organizational framework for managing resettlement must be developed during preparation and adequate resources provided to the responsible institutions. The organization responsible for resettlement should be strengthened when entities executing infrastructure or other sector-specific projects lack the experience and outlook needed to design and implement resettlement. One alternative is to create a special resettlement unit within the project entity: this can facilitate the involvement of other line agencies. Another alternative is to entrust resettlement to the regional or town administration that knows the population and area, can mobilize local expertise, speaks the resettlers' language, and will ultimately be responsible for the integration of resettlers into the host population and area. There also may be considerable scope for involving nongovernmental organizations (NGOs) in planning, implementing, and monitoring resettlement.

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Community Participation and Integration with Host Population

7. Most displaced people prefer to move as part of a preexisting community, neighborhood, or kinship group. The acceptability of a resettlement plan can be increased and the disruption caused by resettlement can be cushioned by moving people in groups, reducing dispersion, sustaining existing patterns of group organization, and retaining access to cultural property 10/ (temples, pilgrimage centers, etc.), if necessary, through the relocation of the property.

8. The involvement of involuntary resettlers and hosts in planning prior to the move is critical. Initial resistance to the idea of involuntary resettlement is to be expected. To obtain cooperation, participation, and feedback, the affected hosts and resettlers need to be systematically informed and consulted during preparation of the resettlement plan about their options and rights. They should also be able to choose from a number of acceptable resettlement alternatives. These steps can be taken directly or through formal and informal leaders and representatives. Experience has shown that local NGOs can often provide valuable assistance and ensure viable community participation. Moreover, institutionalized arrangements, such as regular meetings between project officials and communities, should be provided for resettlers and hosts to communicate their concerns about the resettlement program to project staff throughout planning and implementation. 11/ Particular attention must be given to ensure that vulnerable groups such as indigenous people, ethnic minorities, the landless, and women are represented adequately in such arrangements.

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

10. Successful resettlement requires a timely transfer of responsibility from settlement agencies to the settlers themselves. Otherwise, a dependency relationship may arise, and agency resources may become tied up in a limited number of continually supervised schemes. Local leadership must be encouraged to assume responsibility for environmental management and infrastructure maintenance.

Socioeconomic Survey

11. Resettlement plans should be based on recent information about the scale and impact of resettlement on the displaced population. In addition to describing standard household characteristics, socioeconomic surveys should describe (a) the magnitude of displacement; (b) information on the full resource base of the affected population, including income derived from informal sector and nonfarm activities, and from common property; (c) the extent to which groups will experience total or partial loss of assets; (d) public infrastructure and social services that will be affected; (e) formal and informal institutions (such as community organizations, ritual groups, etc.) that can assist with designing and implementing the resettlement programs; and (f) attitudes on resettlement options. Socioeconomic surveys, recording the names of affected families, should be conducted as early as possible to prevent inflows of population ineligible for compensation.

Legal Framework

12. A clear understanding of the legal issues involved in resettlement is needed to design a feasible resettlement plan. An analysis should be made to determine the nature of the legal framework for the resettlement envisaged, including (a) the scope of the power of eminent domain, the nature of compensation associated with it, both in terms of the valuation methodology and the timing of payment; (b) the legal and administrative procedures applicable, including the appeals process and the normal time-frame for such procedures; (c) land titling and registration procedures; and (d) laws and regulations relating to the agencies responsible for implementing resettlement and those related to land compensation, consolidation, land use, environment, water use, and social welfare.

Alternative Sites and Selection

13. The identification of several possible relocation sites and the demarcation of selected sites is a critical step for both rural and urban resettlement. For land-based resettlement, the new site's productive potential and locational advantages should be at least equivalent to those of the old site. The Bank encourages "land for land" approaches, providing replacement land at least equivalent to the lost land. For rural settlers, irrigation, land reclamation, tree crop development, intensification of production, and other innovations often can provide adequate production potential on limited amounts of land to resettle agriculturalists, even in countries with high population densities. In selecting sites, attention must be paid to the availability of sources of off-farm income (fishing, gathering forest products, seasonal wage employment) to complement farm income. For urban resettlers, the new site should ensure comparable access to employment, infrastructure, services, and production opportunities. For both rural and urban resettlement, the borrower needs to (a) develop institutional and technical arrangements for identifying and preparing relocation sites, e.g., pooling together small plots, wasteland reclamation, land leveling, and terracing; (b) draw up timetables and budgets for site preparation and transfer; (c) make legal arrangements for transferring titles to resettlers; and (d) consider, when necessary, a temporary freeze on land transactions within the relocation area to prevent land speculation. Though the Bank does not normally disburse against land acquisition, it can finance land improvement to accommodate resettlers.

Valuation of and Compensation for Lost Assets

14. Valuation of lost assets should be made at their replacement cost. Compensation is facilitated by (a) paying special attention to the adequacy of the legal arrangements concerning land title, registration, and site occupation; (b) publicizing among people to be displaced the laws and regulations on valuation and compensation; (c) establishing criteria for determining the resettlement eligibility of affected households, e.g., households that have only partially lost their assets but are no longer economically viable should be entitled to full resettlement; and (d) developing mechanisms to prevent illegal encroachers and squatters, including an influx of nonresidents entering to take advantage of such benefits, from participating in the compensation arrangements, by an early recording of the numbers and names of affected populations entitled to compensation/rehabilitation.

15. Some types of loss, such as access to (a) public services; (b) customers and suppliers; and (c) fishing, grazing, or forest areas, cannot easily be evaluated or compensated for in monetary terms. Attempts must therefore be made to establish access to equivalent and culturally acceptable resources and earning opportunities.

16. Vulnerable groups at particular risk are indigenous people, the landless and semilandless, and households headed by females who, though displaced, may not be protected through national land compensation legislation. The resettlement plan must include land

allocation or culturally acceptable alternative income-earning strategies to protect the livelihood of these people.

Land Tenure, Acquisition, and Transfer

17. Resettlement plans should review the main land tenure and transfer systems, including common property and nontitle-based usufruct systems governed by locally recognized land allocation mechanisms. The objective is to treat customary and formal rights as equally as possible in devising compensation rules and procedures. The plan should address the issues raised by the different tenure systems found in a project area, including (a) the compensation eligibility of land-dependent populations; (b) the valuation procedures applicable to different tenure types; and (c) the grievance procedures available for disputes over land acquisition. Plans should contain provisions for conducting land surveys and regularizing land tenure in the earliest stages of project development. Planning should also anticipate the approximate time needed to acquire and transfer land.

Access to Training, Employment, and Credit

18. Normally, general economic growth cannot be relied upon to protect the welfare of the project-affected population. Thus, alternative employment strategies are needed for nonagricultural displaced people, or where the land that can be made available is not sufficient to accommodate all the displaced farmers. The resettlement plan should, where feasible, exploit new economic activities made possible by the main investment requiring the displacement. Vocational training, employment counseling, transportation to jobs, employment in the main investment project or in resettlement activities, establishment of industries, incentives for firms to locate in the area, credit and extension for small businesses or reservoir aquaculture, and preference in public sector employment should all be considered where appropriate.

Shelter, Infrastructure, and Social Services

19. To ensure the economic and social viability of the relocated communities, adequate resources should be allocated to provide shelter, infrastructure (e.g., water supply, feeder roads), and social services (e.g., schools, health care centers).^{12/} Site development, engineering, and architectural designs should be prepared for shelter, infrastructure, and social services. Since community or self-built houses are often better accepted and more tailored to the resettlers' needs than contractor-built housing, provision of a building site with suitable infrastructure, model plans, building materials, technical assistance, and "construction allowances" (for income foregone while resettlers build their houses) is an option communities should be offered. Planning for shelter, infrastructure, and services should take into account population growth.

Environmental Protection and Management

20. The screening process for an environmental assessment (EA) normally classifies projects involving involuntary resettlement as Category A.^{13/} The EA of the main investment requiring the resettlement should thus cover the potential environmental impacts of the resettlement. The resettlement plan must be developed in coordination with the EA and define the boundaries of the relocation area, and calculate incremental population density per land unit. In agricultural projects (involving, for example, relocation to the catchment surrounding a reservoir, or to a downstream command area), if the incoming resettled population is large in relation to the host population, such environmental issues as deforestation, overgrazing, soil erosion, sanitation, and pollution are likely to become serious and plans should either include appropriate mitigating measures, including training of oustees, or else should allow for

alternative sites to be selected. Urban resettlement raises other density-related issues (e.g., transportation capacity, access to potable water, sanitation systems, health facilities, etc.). Constructive environmental management, provided through the EA's mitigation plan, 14/ may provide good opportunities and benefits to resettlers and host populations alike (e.g., project-financed compensatory afforestation not only replaces the forests submerged by reservoirs but also offers gainful employment). If the likely consequences on the environment are unacceptable, alternative and/or additional relocation sites must be found.

Implementation Schedule, Monitoring, and Evaluation

21. The timing of resettlement should be coordinated with the implementation of the main investment component of the project requiring the resettlement. All resettlement plans should include an implementation schedule for each activity covering initial baseline and preparation, actual relocation, and post-relocation economic and social activities. The plan should include a target date when the expected benefits to resettlers and hosts would be achieved.

22. Arrangements for monitoring implementation of resettlement and evaluating its impact should be developed by the borrower during project preparation and used during supervision. 15/ Monitoring provides both a warning system for project managers and a channel for the resettlers to make known their needs and their reactions to resettlement execution. Monitoring and evaluation units should be adequately funded and staffed by specialists in resettlement. In-house monitoring by the implementing agency may need to be supplemented by independent monitors to ensure complete and objective information. Annual and midterm reviews are desirable for large-scale resettlement. The borrower should be required to continue impact evaluation for a reasonable period after all resettlement and related development activities have been completed. The borrower should also be required to inform the Bank about the findings.

Bank Role and Project Options

23. The Bank supports borrowers' efforts through (a) assistance in designing and assessing resettlement policy, strategies, laws, regulations, and specific plans; (b) financing technical assistance to strengthen the capacity of agencies responsible for resettlement; and (c) direct financing of the investment costs of resettlement. The Bank may sometimes finance resettlement even though it has not financed the main investment that made displacement and resettlement necessary (para. 26).

24. The task manager (TM) should inform the borrower of the Bank's resettlement policy. Starting early in the project cycle, the TM with the support of Bank operational, research, and legal staff should assess government policies, experiences, institutions, and the legal framework covering resettlement. In particular, the TM needs to ensure that involuntary resettlement is avoided or minimized, that laws and regulations concerning displaced people provide compensation sufficient to replace all lost assets, and that displaced persons are assisted to improve, or at least restore, their former living standards, income earning capacity, and production levels.

25. The adequacy of the resettlement plan should be reviewed by appropriate social, technical, and legal experts. Resettlement specialists should visit the possible resettlement sites and review their suitability. In the case of large-scale relocation, such experts should be included in independent technical or environmental review boards. 16/

26. Bank financing of resettlement can be provided as follows: (a) As a component of the main investment project causing displacement and requiring resettlement. (b) If large enough, as a free-standing resettlement project with appropriate cross-conditionalities, processed and implemented in parallel with the investment project that causes the displacement. The latter

approach may better focus country and Bank attention on the effective resolution of resettlement issues. (c) As a sector investment loan. 17/ Where the specific resettlement needs of each subproject are not known in advance, the borrower would need to agree to resettlement policies, planning principles, institutional arrangements, and design criteria that meet Bank policy and requirements as a condition of the loan. An estimate should be provided of total population to be displaced and overall resettlement costs, as well as an evaluation of proposed resettlement sites. Subprojects in sector investment loans should be screened by the implementing agency to ensure consistency with this directive, and approved individually by the Bank. For countries with a series of operations requiring resettlement, efforts to improve the policy, institutional, and legal framework for resettlement should form part of the Bank's ongoing country and sector dialogue with the government. These efforts should be appropriately reflected in economic and sector work and in country strategy papers and briefs.

Processing and Documentation

27. The Regional Vice President (RVP) should be kept informed of major resettlement issues, and his guidance sought where necessary. The Regional Environment Division (RED), the Legal Department (LEG), and settlement specialists in Sector Policy and Research (PRS) should be consulted or included as necessary in peer reviews on involuntary resettlement issues throughout the project cycle.

Identification

28. The possibility of involuntary resettlement should be determined as early as possible and described in all project documents. The TM should (a) briefly summarize in the Initial Executive Project Summary (Initial EPS) 18/ the magnitude, strategy, and timing of the resettlement; (b) inform borrowers of the Bank's resettlement policy; (c) review past borrower experience with similar operations; (d) invite agencies responsible for resettlement to discuss their policies, plans, and institutional, consultative, and legal arrangements for resettlement; and (e) where appropriate, ensure that technical assistance is provided early to borrowers. Such assistance should include the use of project preparation facility (PPF) resources 19/ for planning resettlement and building institutional capacity.

Preparation

29. During project preparation, the feasibility of resettlement must be established, a strategy agreed upon, the resettlement plan drafted, and budget estimates prepared. 20/ The full costs of resettlement should be identified and included in the total cost of the main investment project, regardless of financing source. The costs of resettlement should also be treated as a charge against the economic benefits of the investment project that causes the relocation. Any net benefits to resettlers (as compared to the "without project" circumstances) should be added to the benefit stream of the main investment. While the resettlement component or free-standing project need not be economically viable on its own, it should be the least-cost approach consistent with the policies laid out above.

Appraisal and Negotiation

30. Submission to the Bank of a time-bound resettlement plan and budget that conforms to Bank policy is a condition of appraisal for projects involving resettlement, except for sector investment loans as discussed in para. 26. All final EPSs should confirm that this requirement has been met. The appraisal mission should ascertain (a) the extent that involuntary resettlement and human hardship will be minimized and whether borrowers can manage the process; (b) the adequacy of the plan, including the timetable and budget for resettlement and compensation; (c) the soundness of the economic and financial analysis; (d) the availability and

adequacy of sites and funding for all resettlement activities; (e) the feasibility of the implementation arrangements; and (f) the extent of involvement of beneficiaries. At negotiations, the borrower and the Bank should agree on the resettlement plan. The resettlement plan and the borrower's obligation to carry it out should be reflected in the legal documents. Other necessary resettlement-related actions must be covenanted. The Staff Appraisal Report and the Memorandum and Recommendation of the President should summarize the plan and state that it meets Bank policy requirements.

Implementation and Supervision

31. Resettlement components should be supervised throughout implementation. 21/ Supervision that is sporadic or left until late in implementation invariably jeopardizes the success of resettlement. Bank supervision missions should be staffed with the requisite social, economic, and technical expertise. Annual reviews of large-scale resettlement and in-depth Bank reviews of midterm progress are highly desirable. These reviews should be planned from the outset to allow the Bank and the borrower to make necessary adjustments in project implementation. Complete recovery from resettlement can be protracted and can often make it necessary to continue Bank supervision until well after populations have been relocated, sometimes even after a project has been closed.

Ex Post Evaluation

32. The project completion report 22/ submitted to the Operations Evaluation Department should evaluate resettlement and its impact on the standards of living of the resettlers and the host population.

Notes

- 1/ "Bank" includes IDA, and "loans" includes credits.
- 2/ See also "Involuntary Resettlement in Development Projects," World Bank Technical Paper No. 80 (Washington, D.C.: The World Bank, 1988).
- 3/ OD 4.00, Annex A, "Environmental Assessment," para. 18.
- 4/ Such projects may include construction or establishment of (a) dams, (b) new towns or ports, (c) housing and urban infrastructure, (d) mines, (e) large industrial plants, (f) railways or highways, (g) irrigation canals, and (h) national parks or protected areas. Refugees from natural disasters, war, or civil strife are also involuntary resettlers, but they are not discussed in this directive (see OD 8.50, "Emergency Recovery Assistance").
- 5/ OD 4.00, Annex A, "Environmental Assessment," para. 2, and Annex A3.
- 6/ Host communities are those receiving resettlers.
- 7/ See OMS 2.34, "Tribal People in Bank-Financed Projects," to be reissued as OD 4.40, "Tribal People."
- 8/ Where only a few people (e.g., less than 100-200 individuals) are to be relocated, appropriate compensation for assets, logistical support for moving, and a relocation grant may be the only requirements. However, the principles on which compensation is to be based are the same as for larger groups.
- 9/ See OD 14.70, "Involving Non-governmental Organizations in Bank-Supported Activities."
- 10/ See OPN 11.03, "Management of Cultural Property in Bank-Financed Projects," to be reissued as OD 4.50, "Cultural Property."
- 11/ Disputes of varying kinds may arise in the process of implementation of the agreed resettlement plan. These conflicts could take the form of appeals related to the

compensation payable to affected persons, conflicts between the displaced persons and the host population, appeals to the agency charged with the implementation of the resettlement with regard to services promised, etc. It is therefore important to devise schemes for conflict resolution for all resettlement plans. Such schemes should, as far as possible, take into account existing procedures for settling disputes in the country or area concerned.

- 12/ Health care services, particularly for pregnant women, infants, and the elderly, may be important during and after relocation to prevent increases in morbidity and mortality due to malnutrition, the stress of being uprooted, and the usually increased risk of water-borne diseases.
- 13/ See OD 4.00, Annex A, Environmental Assessment, and Annex B, Environmental Policy for Dam and Reservoir Projects. The environmental implications of involuntary resettlement will be further discussed under para 6.0, "Special Issues in Environmental Assessment," in Environmental Assessment Sourcebook, (Washington, D.C.: The World Bank, to be issued).
- 14/ See Annex A1, para. 2, in OD 4.00, Annex A, Environmental Assessment.
- 15/ See OD 10.70, Project Monitoring and Evaluation.
- 16/ See OD 4.00, Annex B, Environmental Policy for Dam and Reservoir Projects.
- 17/ See OD 1.00, Bank Goals and Instruments, and OD 8.20, Sector Investment and Maintenance Loans, both to be issued.
- 18/ See Circular Op 87/03, Procedures for Processing Investment Loans and Credits, filed as OMS 2.00, to be reissued as OD 9.00, Processing and Documentation for Investment Lending.
- 19/ See OMS 2.15, Project Preparation Facility, to be reissued as OD 8.00, Project Preparation Facility and Special Project Preparation Facility.
- 20/ Detailed guidelines for preparing and appraising resettlement plans are provided in Involuntary Resettlement in Development Projects, World Bank Technical Paper No. 80, Annex 1 (Washington, D.C.: The World Bank, 1988). Pro forma cost tables and guidelines for economic and financial analysis are provided in Annex 2.
- 21/ See OD 13.05, Project Supervision, particularly paras. 44-47.
- 22/ See the OPNSV memorandum, Guidelines for Preparing Project Completion Reports, June 7, 1989, and OMS 3.58, General Guidelines for Preparing Project Completion Reports, which are to be combined and reissued as OD 13.55, Project Completion Reports.

