

No. 1

THE PREPARATORY STUDY REPORT
ON
THE CONFIRMATION OF ENVIRONMENTAL AND
SOCIAL CONSIDERATIONS OF THE PROJECT
FOR
IMPROVEMENT OF NATIONAL ROAD NO. 1
(PHNOM PENH – NEAK LOEUNG SECTION)
IN
THE KINGDOM OF CAMBODIA

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DECEMBER 2003

JAPAN INTERNATIONAL COOPERATION AGENCY
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PREFACE

In response to the request from the Royal Government of the Kingdom of Cambodia of Japan decided to conduct The Preparatory Study on the Confirmation of the Resettlement Issue in Environmental and Social Consideration of the Project for the Improvement of the National Road No.1 (Phnom Penh-Neak Loeng) in the Kingdom of Cambodia and entrusted the study to Japan International Cooperation Agency(JICA).

JICA dispatched a study team to the Kingdom of Cambodia, two times between 29 June 2003-19 July 2003 and 23 November 2003-12 December 2003.

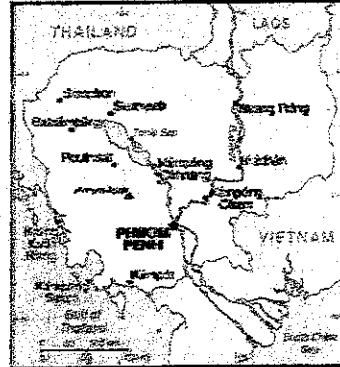
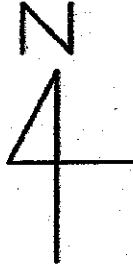
The study team held discussions with the officials of the Royal Government of the Kingdom of Cambodia and conducted field surveys at the study area. After further studies and analyses in Japan, this report has been finalized.

I hope that this report will contribute to the promotion of this project and to the enhancement of friendly relationship between our two countries.

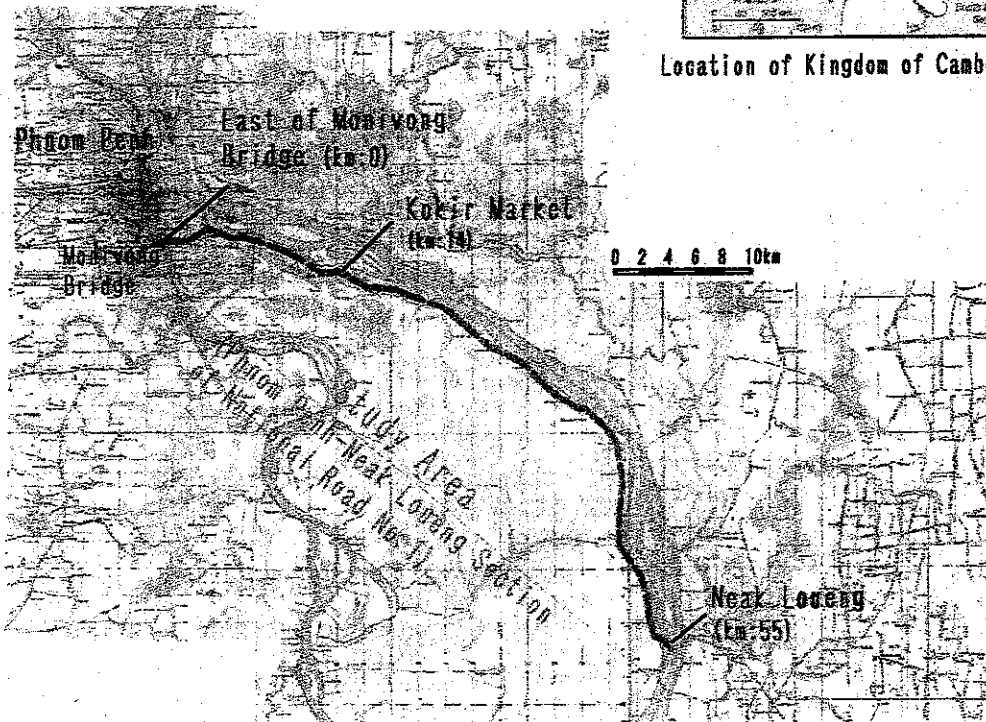
Finally, I wish to express my sincere appreciation to the officials concerned of the Royal Government of the Kingdom of Cambodia for their close cooperation extended to the team.

December 2003

Kunimitsu Yoshinaga
Vice-President
Japan International Cooperation Agency



Location of Kingdom of Cambodia

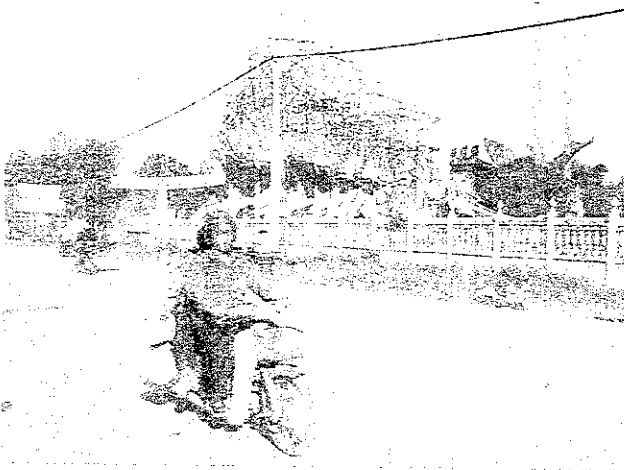


Location of Study Area

Inside City, along C-1 Section, NR-1



At the most congested portion around Km0+400, many shops and stalls have encroached into roadside, stretching from residential buildings behind. Note that the concrete electric/telegram pole is located only about 7m away from the centerline of the road.

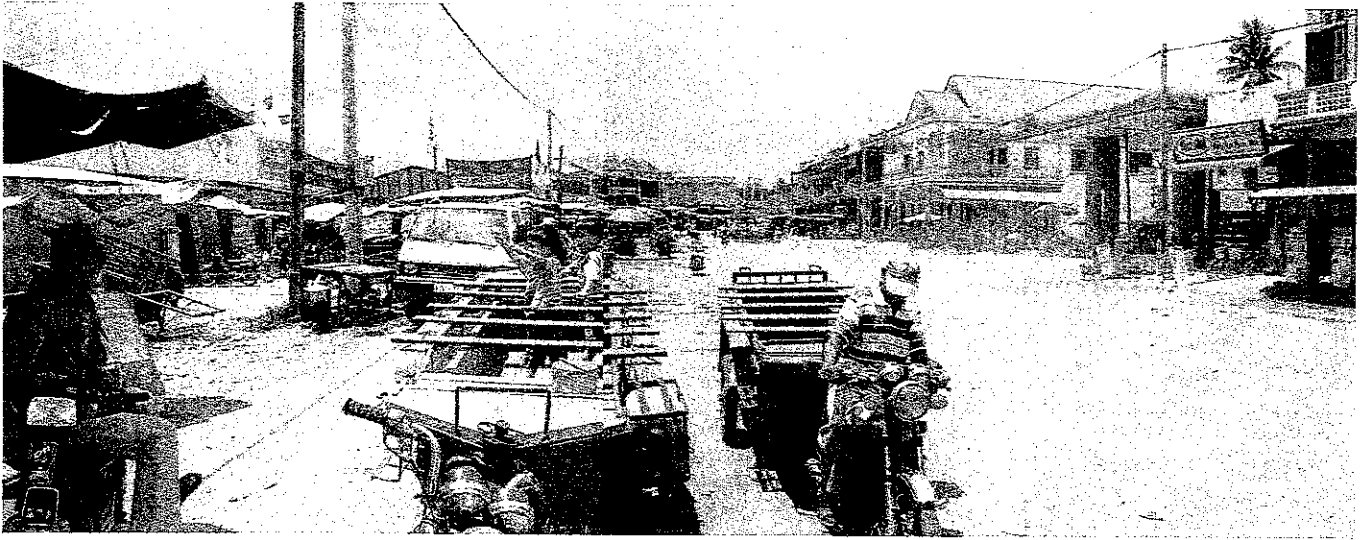


Pagoda being constructed within ROW at Km3+000



East side of Monivong Bridge

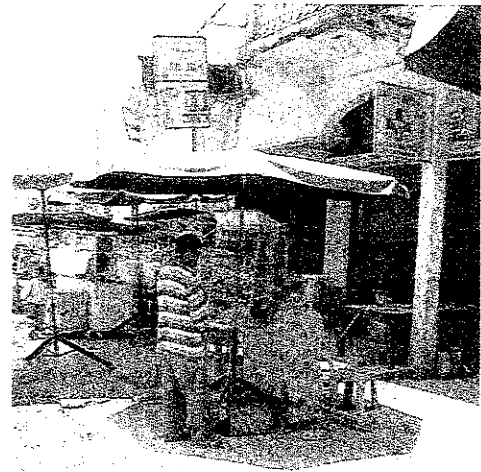
Koki Market, along C-1 Section of NR-1



Koki Market at Km13+700



A "moto-remok" passing in front of the market



A stall occupying the sidewalk

Rural Area along C-1 Section of NR-1



Local market

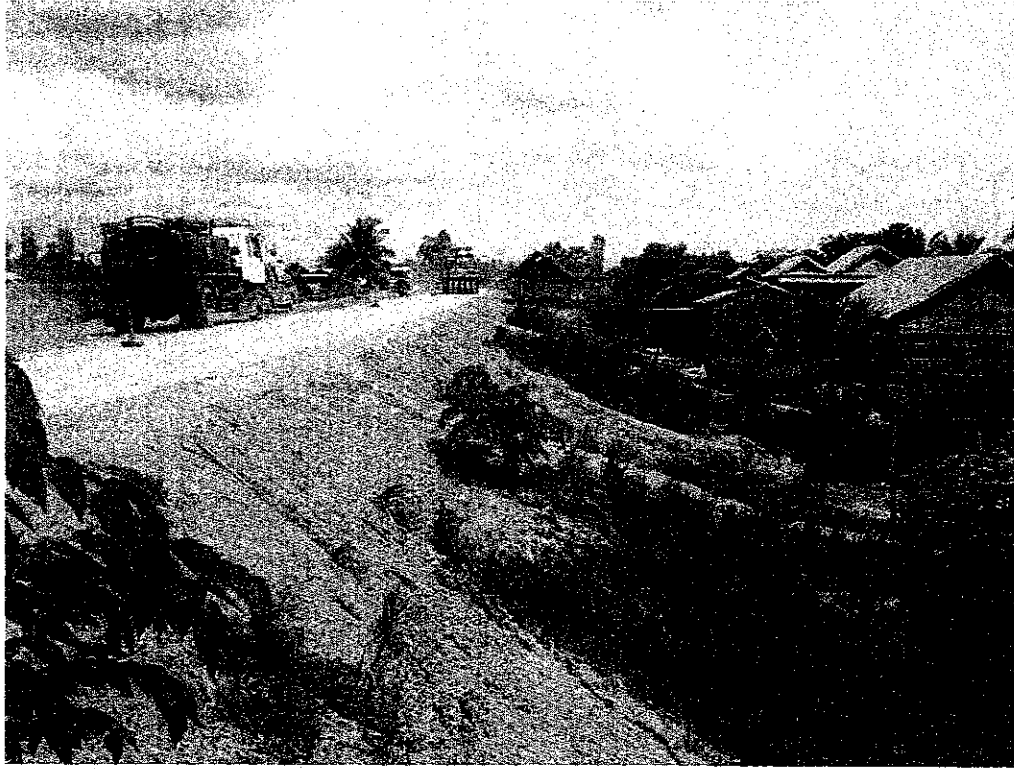


Jack fruit tree
entitled for compensation

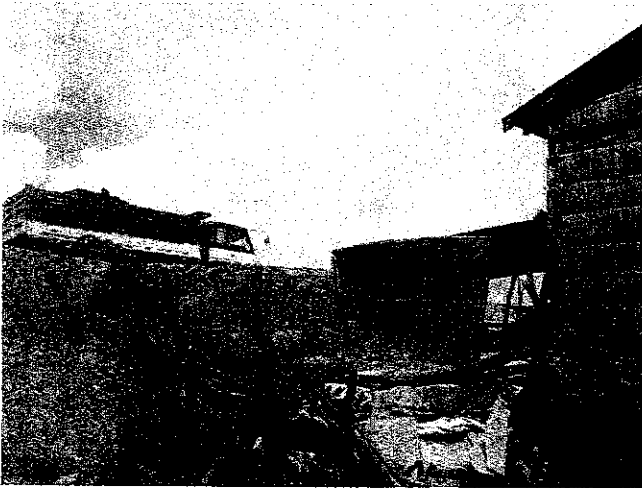


Road conditions in the country side

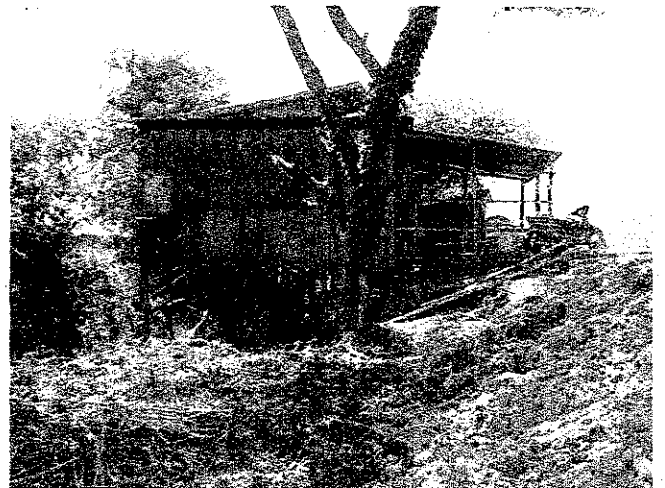
ADB's Emergency Flood Project Portion along C-1 of NR-1



Road raised-up for emergency flood mitigation project, ADB. Note the difference of the elevation between road surface and surrounding houses.

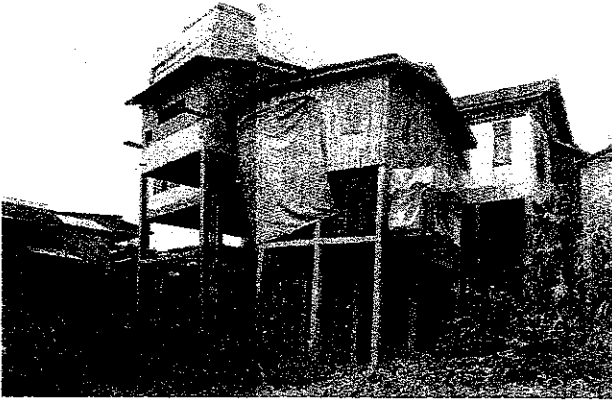


The stall has been completely backfilled in the road embankment and a lorry is passing over

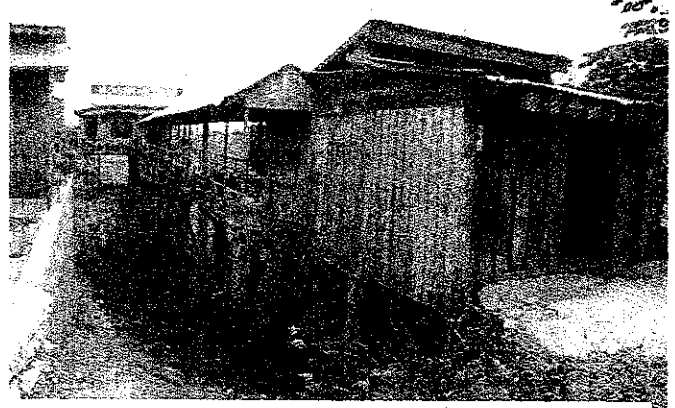


Piles supporting the stall building are also backfilled as well.

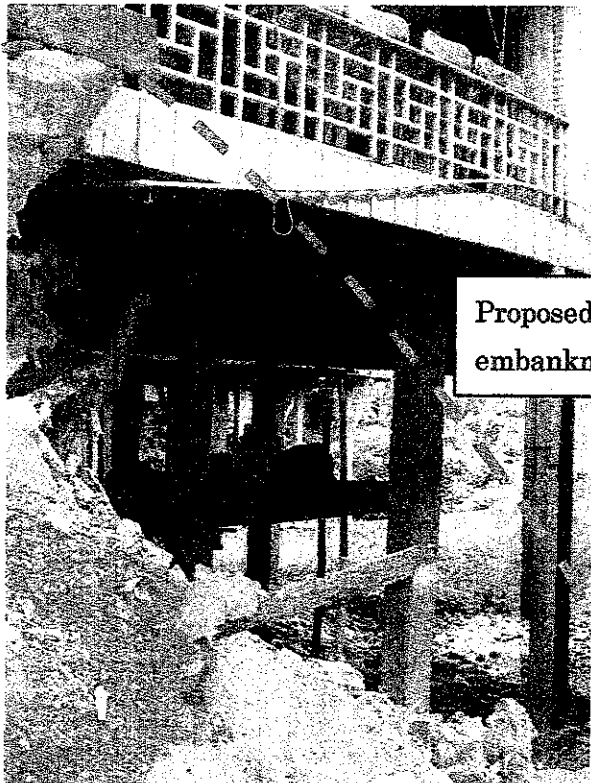
Houses to be relocated



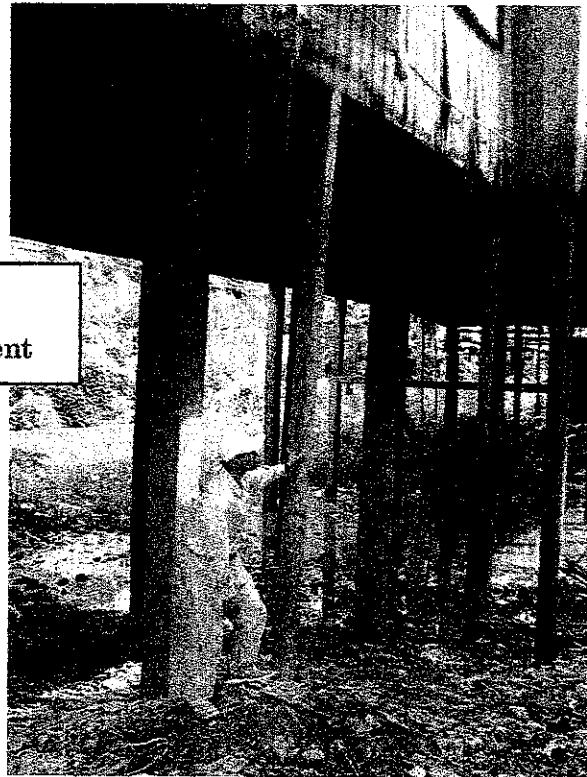
Houses are usually placed on slender piles (Km1+)



A stall is stretching out on the roadside from the main building far behind. All the buildings affected by the road enlargement will be the small stall only in this case.



Proposed
embankment

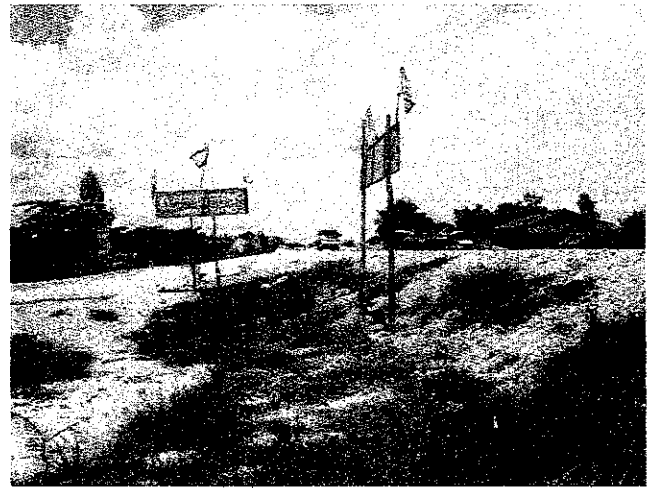


The foundation piles supporting the restaurant building above (km1+) . This restaurant will be no other way than demolished by the road enlargement.

C-2 Section of NR-1



Old NR-1



Junction of old NR-1 and By-pass



Bypass was constructed to avoid the narrow NR-1.



Bypass slope under construction

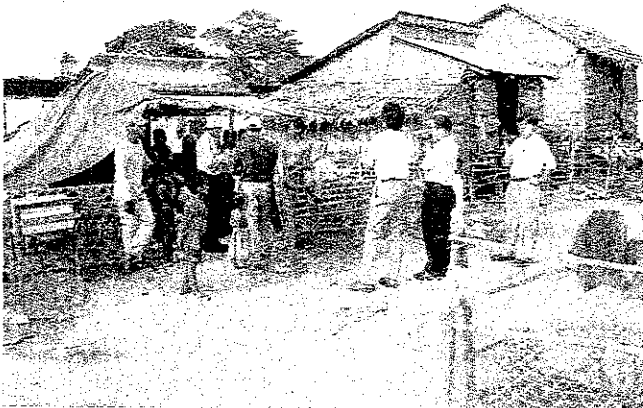
The Relocation Site for the PAPs by the Road Improvement Project , ADB



Houses relocated



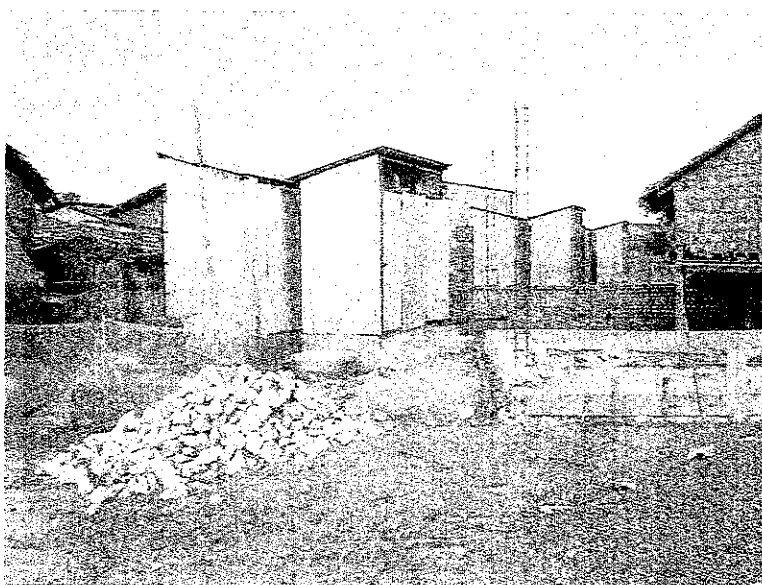
Inside the house



Interviews to PAPs



A hand pump with a background of the bypass

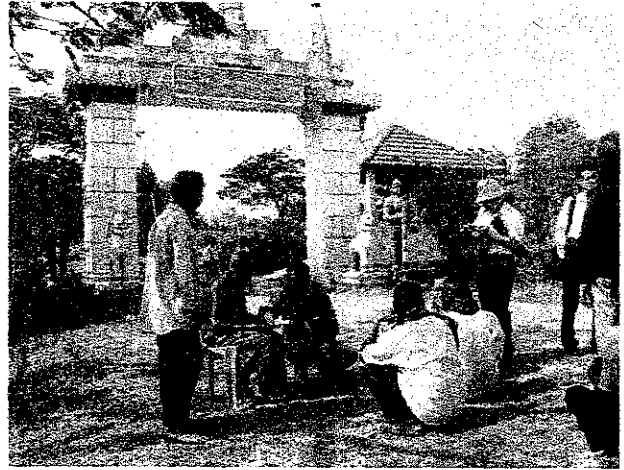


Each house has its own toilet respectively, however the sanitary condition can be problem.

Simple Survey



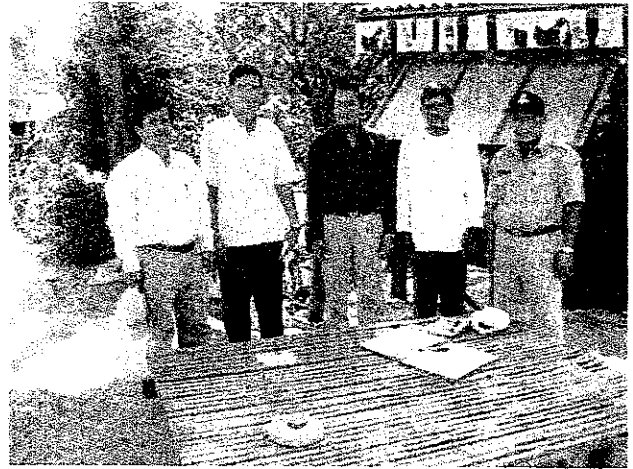
Simple survey in the restaurant



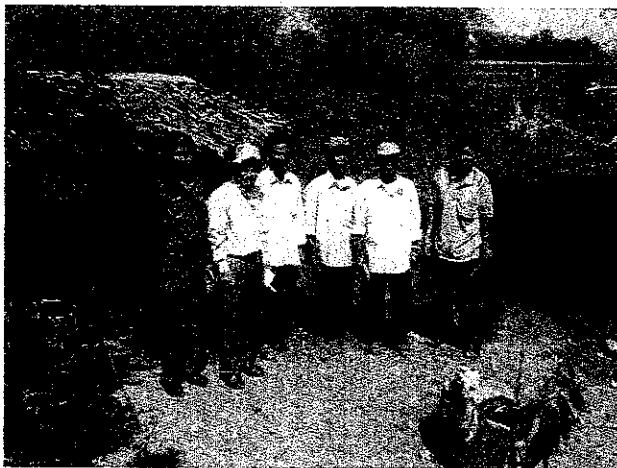
Simple survey in the Pagoda



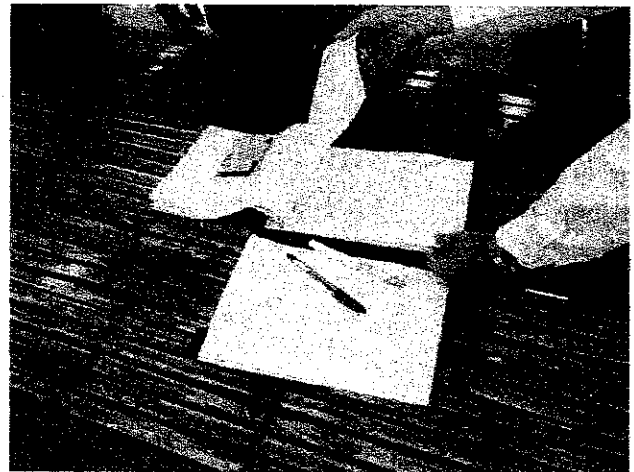
Simple survey in the rural area



Simple survey team No. 1

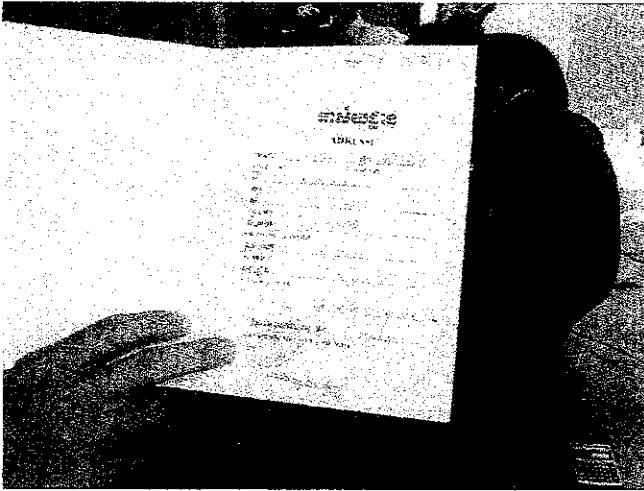


Simple survey team No.2

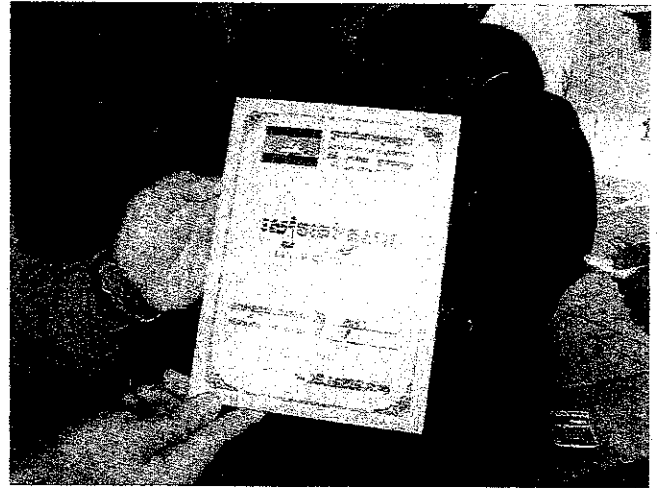


Finger printing to the survey result

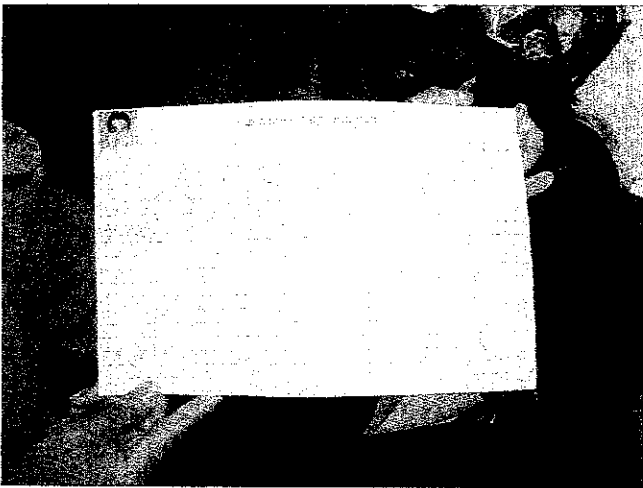
Family Books



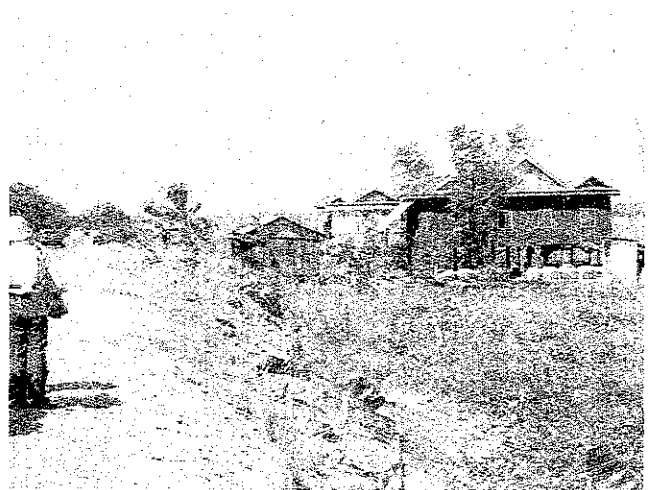
Cadastre de residence



Cover page of family record book

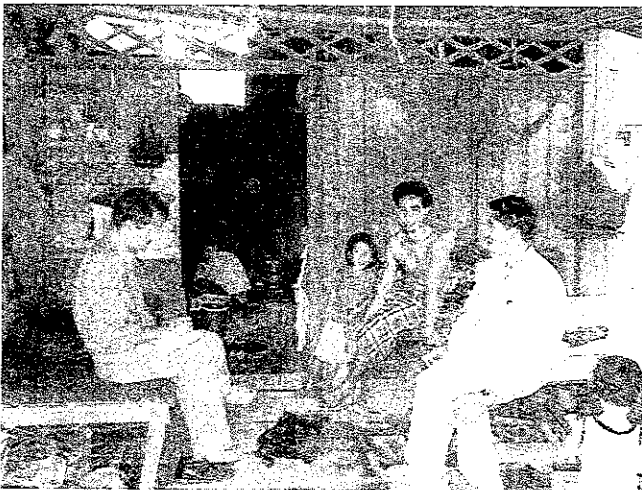


Content of family record book



Main building outside of ROW 30m

Social Survey

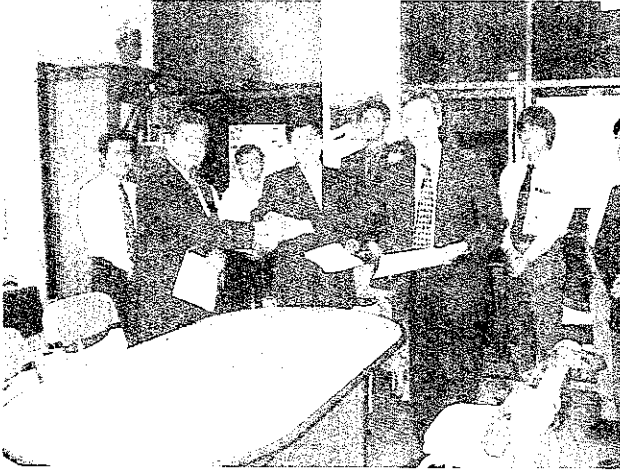


Interview to residents within the Tentative ROW



Interview to residents outside the Tentative ROW

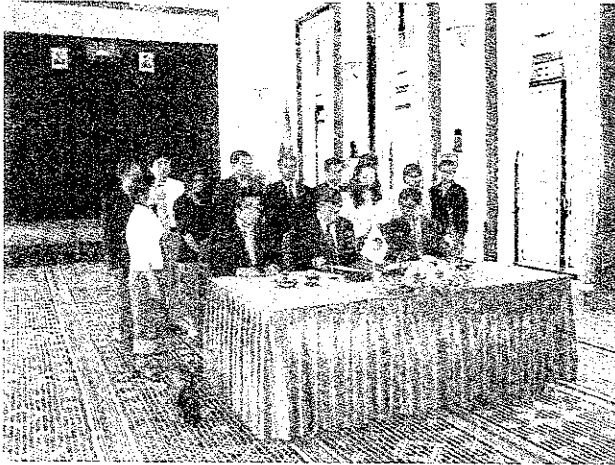
Singing Ceremonies and Discussions



The 1st preparatory study team



Discussion with NGO (Right: Ms Sandy from LAC)



The 2nd preparatory study team



Discussion with CDC and the 2nd preparatory study team, joined by the 2nd Mekong bridge preparatory study team

Glossary of words

Words	Abbreviation	Supplementary explanation
Asian Development Bank	ADB	An international financing institution, extending loan to the developing countries and providing technical assistance such as formulating and/or developing projects,
Cut off Date		The last date of IRC's Detailed Measurement Survey. According to this survey, entitlement to compensation of the project affected persons will become finalized. Persons entering after this date are not deemed as project affected persons and will be subject to eviction. However, those who are missed out of survey but can be certified as continuing disputes on land in ROW are deemed as project affected persons.
Corridor of Impact	COI	Width of surrounding temporary work space in addition to the road width itself. In ADB projects, the residents, not within full ROW, but only within COI are supposed to be relocated in order to minimize number of persons resettled.
Detailed Measurement Survey	DMS	Mainly the survey of the assets of each project affected persons
Ethnic Minority		10% of the total population is ethnic minority. Islam people called Chum, with different appearances, are considered as ethnic minority. Special attention is paid to resettlement of these ethnic minorities in ADB projects. Number of ethnic minority will be clarified at DMS/Census for NR-1.
Eviction		It sometimes happens that those who entered after DMS and started to use land without permission and those who would not leave before two months elapse in spite of receipt of compensation /assistance /consultation /training are evicted.
Feasibility Study Report	FS Report	The Final Report on Rehabilitation Plan of the National Road No.1 between Phnom Penh and Neak Loeung dated March 2003
Inter-Ministerial Resettlement Committee	IRC	The highest authority for resettlement implementation consisting of Ministry of Economy & Finance, other concerned ministries (for example, Ministry of Public Works & Transport), Ministry of Land Management and Urban Planning & Construction etc
Japan International cooperation Agency	JICA	Agency extending bilateral assistance. Implementing technical assistance, financial assistance and development survey.

Words	Abbreviation	Supplementary explanation
Ministry of Public Works and Transport	MPWT	Implementation body for NR-1 Improvement projects
Non Government Organization	NGO	Supervises resettlement activities as third party
Project Affected Households	PAHs	Households residing in 1,805 houses in tentative ROW (number of households may probably increase more than 1,805). It is noted that number of household and houses (buildings) should not be mixed up. Those households whose head is socially vulnerable (poor, widow, aged, disabled) are paid special compensation to each household.
Projected Affected Persons	PAPs	Individual affected in negative impact continually or temporarily due to development plan. Such persons that are affected by relocation of shops temporarily, relocation of houses and height difference between house and road.
Project Affected Houses		Households residing in 1,805 houses in tentative ROW (number of households may probably increase more than 1,805). Most of the people build permanent structures at distance enough apart from centerline of the road. From this, these people are well conversant with ROW and land acquisition. Most of these 1,805 houses, of which not total but some portion only, are removed.
Resettlement Action Plan	RAP	It is called RP (Resettlement Plan) or RIP (Resettlement Implementation Plan) sometimes.
Right of Way	ROW	Land for road insisted by the state to be owned by the state. Width from 50m to 60m on main National Road is "permanent ROW" or simply "ROW". From the time of French colony, there has been this concept, and re-confirmed by the Prime Minister's declaration No.06 in 1999. According to FS Report, relocation of all the residents in the permanent ROW would be a great impact, so in order to mitigate it, 30m width, which is close to actual road construction width, is chosen as "tentative ROW". Residents within this tentative ROW are to be relocated.
Setback		To relocate (dismantle and re-construction) houses from the tentative ROW to the out of tentative ROW within ROW nearby. By this, acquisition of new land will become unnecessary.
Squatter		Those people who occupy the land without so-called ownership. One of the illegal occupancy is due to insufficient legislation along with historical background.

Words	Abbreviation	Supplementary explanation
Stakeholder		Project affected persons, villagers, administration organization (IRC), third party (NGO), including organization of financing and assistance.
Tenant		Tenants are recommended to receive some of the compensation. However, they cannot receive compensation for land.
Vulnerable Group		<p>Compared to the ordinary people, group who suffer substantial development damages socially and economically and considered to receive special attention. From 1975 to 1979, being under war, many households headed by widow and disabled were generated. These are grouped in the following social group.</p> <ul style="list-style-type: none"> • widow-headed household • landless household • household of the disabled • poor households belonging to the Cambodian poverty criteria (with income equal or less than 10\$/month) • ethnic minority

Summary

This report is a summary of the second field survey and result of analysis in Japan carried out from June till December 2003 with respect to “The Preparatory Study on the Confirmation of the Resettlement Issue in Environment and Social Consideration of the Project for the Improvement of National Road No.1 (Phnom Penh-Neak Loeung Section) in Kingdom of Cambodia”.

1. The background of this study is, in view of the result of FS study that 1,805 houses are going to be affected in road improvement project, to take into account the concept of the Draft “Japan International Cooperation Agency Guidelines for Environment and Social Considerations” coming into force in April 2004 to be applied to the project and to effectuate the said guideline in advance. This prior application reflects the expression of strong intent of Japanese government not to defer (put off) the issue of resettlement.
2. In implementing the grant aid of the project, the Cambodia Government is required to (1) obtain basic agreement for the project from PAPs, (2) obtain contractual agreement for compensation content from PAPs and (3) confirm completion of relocation of PAPs as conditions to proceed to following stages from FS Stage, Basic Design Study Stage, Detail Design Stage to Construction Stage respectively. In addition to above, the follow-up study is also planned as an ex-post evaluation if livelihoods and life levels of relocated people have been properly restored.
3. The socio-economic study was conducted to the residents along the National Road No.1 who can be affected by the project. According to the result of FS, it was clarified that the use of land is mainly for residence (68%), fruits (coconuts, mango) vegetation (52%) among the 891 households who responded. Most of the houses are built on piles, material of which are mainly of woods (75%). Ownership status is own houses (76%). Also, according to interview with 4 households, we obtained such opinions that “agree to the road improvement project”, “it is possible to move the house apart from the road”, “We knew about ROW (government owned road width), however we need appropriate compensation”.
4. We reviewed the FS report from the viewpoint of environmental and social considerations. Since the pavement of the road should not be affected by the

floodwater at HWL, the road formation level should be raised up 1m above existing level for which the widening of embankment is also necessary as well. For this raise-up, at the area where especially many houses are concentrated in Km 0.3 – Km13.5, followings are concerned.

- (1) About another 90 houses will become affected in addition to already known 1,805 houses (total 1,895 houses).
- (2) Serious influences such as relocation of whole buildings, number of which is estimated about 300 houses within the mentioned 1,805 houses, can be generated.
- (3) Due to increase of height by 1 m in front of the entrance, access to the road will become inconvenient for all the houses.

The solution of these issues will be the subject at the time of the basic design study.

5. Cambodia, in the past, had a history of social chaos due to transition from free economy, Pol Pot control, centrally regulated economy and again free economy, most of the people have occupied the land without land entitlement certificate. Due to this, in implementing road improvement, there is a dispute arising between the Government of Cambodia, who do not compensate for land cost in acquisition because it is within ROW, and residents, who insist that they have the ownership according to the land law saying “occupants for certain period are deemed to be owners” and thus they have the ownership and claim for appropriate compensation.
6. The involuntary resettlement policy common between ADB and the World Bank in developing projects, are
 - (1) To avoid involuntary resettlement wherever feasible,
 - (2) To minimize the resettlement where population displacement is unavoidable by choosing alternative viable project option and
 - (3) Where involuntary resettlement is unavoidable, to ensure that the life level of affected people are equal or better than before relocation

ADB has recently become approving the compensation cost of resettlement to be accommodated within the loan, however the World Bank has not yet approved it. ADB has changed its policy twice or three times on whether land compensation within ROW is required or not in the past, however now (after August 2002) they put

a condition that compensation of land will be made from the loan for the land even if it is located within ROW.

7. According to FS report, the Government of Cambodia, at present, make the 30m width for all over the length of the National Road No.1 as tentative ROW and make it a policy that the land of residents within that area to be acquired without compensation. However, at the C-2 section (Neak Loeung – Bavet) of NR-1, NGO dispute with Cambodian Government, insisting that, on the basis of the Prime Minister's declaration, issued in 1999, which states "there is no ROW at the populated area", there is no legal basis at least for acquiring land within ROW without compensation at least where there are many houses. Therefore, it requires careful study referring to this experience. In addition to these, Cambodian Government is required to study whether or not it should approve compensations for business loss, tenant and transfer etc., which are the international standard of in the view of environmental and social impact consideration.

8. Both Government of Cambodia and Japan made it a condition for implementation of the Basic Design Study to obtain basic agreement of 70 to 80 % of PAPs to the project. The result of the Simple Survey, which is conducted to the persons who utilize the land, in any form, within the width of 30m distances from the road center, was as follows:

- As of 5 January 2004, number of the items (properties) identified is 6,487.
- Of which, 5,730 items were analyzed.
- Of which, 4,925 items' owners were identified and interviewed,
- Of which, 99.35% of the owners expressed as agree to the project and
- 97.60% of 4,925 items' owner expressed they are ready for relocation if properly compensated,
- However, intentions of owners of 805 items of which owners were not identified in this moment shall be clarified in the future as well.

Thus, we consider it is feasible to obtain the agreement of 70 – 80% of the affected persons that are the basic condition of the Japanese Government for the approval of the Basic Design Study.

9. According to environmental impact law of Cambodia, the evaluation of formal environmental impact is basically not required. However, supplementary

explanation is required to the Preliminary Environment Report.

From the above circumstances, the following recommendation is made:

- Cambodia Government are kindly requested to understand the JICA Guidelines for Environmental and Social Considerations (draft).
- It is important to have an impartial, consistent and everlasting resettlement policy. The policy, which varies depending on the donors or projects, makes the PAPs feel confused or uneven.
- International aid organizations such as World Bank and Asian Development Bank have similar resettlement policies that (1) involuntary resettlement should be avoided where feasible and (2) where unable to avoid, PAPs are properly compensated. It is requested to perform detailed comparative studies of feasible alternatives.
- To ensure that PAPs will be at least as well off as they would have been in the absence of the project, they should be provided with equivalent land for land lost in ROW, cash compensation for purchase or other means of permanent income creation regardless of the possession of formal land titles.
- The third party shall properly monitor the implementation of RAP and this is indispensable to prevent or solve the disputes and troubles in the future.