

2. 第二次現地調査結果報告、平成 17 年 3 月 18 日

資料

1. Technical Note, 17 march 2005

Attachment

1. 住民合意取得状況レポート例
2. 補償項目補償単価の見直しおよび適用要求レター, 16 March 2005
3. IRC から Province への GC 設置命令, 17 March 2005
4. マイルストーン・スケジュール, 16 march 2005
2. Organization Chart of Resettlement Unit
3. TOR for Technical Assistance for Enhancing Resettlement Legal Frame work and Institutional Capacity (ADB・TA 4490-CAM), 10 January 2005
4. ドナー会議での ADB マーラ氏発表の要旨, 9 March 2005
5. ドナー会議での ADB マーラ氏の発表原稿, 9 March 2005
6. JICA 昼食会でのマーラ氏の発言要旨, 10 March 2005
7. Confirmation Reconnaissance Survey on Brick-made structures built along Phase II DMS Section (Sta0+300~Sta23+900), 12 March 2005
8. Draft Resettlement Action Plan
9. Draft Resettlement Brochure

平成 17 年 3 月 18 日
日本海外コンサルタンツ(株)

カンボディア国「国道 1 号線（プノンペン～ネアックルン区間）改修計画」
予備調査（第二次環境社会配慮支援調査）
第 2 次現地調査結果報告

1. 現地調査期間

平成 17 年 3 月 6 日（日）～3 月 20 日（水）（15 日間）

2. 日程

	日付	作業概要
1	3 月 6 日（日）	成田発プノンペン着 1845
2	3 月 7 日（月）	IRC 打合せ
3	3 月 8 日（火）	資料整理（女性の日）
4	3 月 9 日（水）	インフラ関係ドナー会議
5	3 月 10 日（木）	Resettlement Brochure 作成
6	3 月 11 日（金）	IRC 打合せ
7	3 月 12 日（土）	Phase 工区のレンガ造りの家屋の視察
8	3 月 13 日（日）	資料整理
9	3 月 14 日（月）	IRC Mr. Chou Vanny 打合せ
10	3 月 15 日（火）	RAP 作成
11	3 月 16 日（水）	JICA 打合せ（テクニカル・ノート作成打合せ）・RAP 作成
12	3 月 17 日（木）	IRC とテクニカル・ノート署名取り交わし
13	3 月 18 日（金）	JICA 事務所報告・日本大使館報告
14	3 月 19 日（土）	資料整理 2025：プノンペン発（TG699） 2130：バンコク着 2340：バンコク発（TG642）
15	3 月 20 日（日）	0730 成田着

コンサルタント団員の滞在期間

No.	Name	Job Title	Occupation	Period
1	小林 良明	環境社会配慮（住民移転計画策定支援）	日本海外コンサルタンツ(株)	6 th March to 20 th March, 2005
4	庄司 岳雄	環境社会配慮（移転手続きモニタリング）		

3. 第2次現地調査結果の概要

3.1 Technical Note の署名(資料1)

3月17日にIRCとコンサルタント(Basic Design Study Team/Preparatory Study Team)は、IRCに遵守してもらう事項についての覚書を取り交わした。内容の詳細は資料1に示すがその概要は以下のとおり：

3月末日までにPhase Ⅰ工区の住民合意取得状況について、Attachment-1の様式を参考に日本側に報告する。

ADBと協議の結果、補償単価が改定されれば、本プロジェクトのすべてのPAPsに対してもその改訂案を適用すること。(資料1 - Attachment 2)

日本側とのこれまでの合意に基づいて補償項目・補償単価見直しを行い、できるだけ早くその結果報告を行うこと。

苦情処理委員会(GC)設立案を3月17日にIRC議長が承認し、同日カンダール州知事に指示が出された。同知事は3月22日までに委員名/その機能等を公示する予定。(資料1 - Attachment 3)

ステージ2(コキ市場～終点)とステージ3(始点～コキ市場)について、日本側が要求した完了予定日2005年10月および2007年10月それぞれを厳守すべくDMSを遅滞無く進める。(資料1 - Attachment 4)

3.2 新 Resettlement Unit (RU) の設立(資料2)

Sr. Minister の Mr. Keat Chhon の名で国家開発計画における住民移転対策実施担当部署としてRUが設立された。Dr. Chhorn Sopheap (法律の専門家だが住民移転の経験はないようだ)を長とし、Mr. Chou Vanny (これまでADB・世銀担当、住民移転に詳しい)を副長とする新RU設立Prakasが発表された(2005年1月27日付け)。コンサルタントはこの新RUと交渉した。

3.3 補償項目および補償単価

3.1で述べたが、2000年に設定した補償項目・補償単価を2005年8月末までにIRCが見直しを行うことになっている。先日IRCとADB間でこの点についての協議が行われたが詳細についてはJICA側に説明がなされていないために資料1 - Attachment 2のレターにて改めて要求した。

3.4 ADBの動きについて

3.4.1 国家住民移転政策の立法化(資料3)

ADBは住民移転政策・施行令・規則策定、その立法化および発令、人材養成・訓練計画を支援する予定である。具体的にはADB支援(TA)による国家住民移転政策プロジェクトが2ヶ月後にスタートし、その6ヵ月後にDraftが提出される予定である。それに対してWorkshopを実施して各機関の意見を聞き、1年後に法令化する予定である。

3.4.2 マーラ氏との情報交換(資料4,5および6)

3月9日のドナー会議でADB上級住民移転専門家マーラ氏の発表を聞き、JICA昼食会で情報交換を行った。

3.5 レンガ造り家屋調査(資料7)

補償単価の大きいレンガ造りの家屋、特に2階建て以上の建屋の分布状態について目視調査を始点から STA.23.9km の区間に対して実施した。その結果、PRW にかかっている複数階のレンガ造りの建物は STA.0+330 付近および STA.24+540 付近にそれぞれ1軒あることが判明した(ただし、補償単価のそう高くないと思われる1階立てのレンガ・木材混合家屋 - ほとんどが店舗、倉庫、車庫等である - は多数存在する)。B/D により PRW が大変効率的に設定されたものとする。

3.6 住民移転計画書案(Draft RAP)および住民説明用小冊子(Draft Resettlement Brochure)の提出(資料8および9)

RAP(案)のハード・ソフトコピーをカボ・ジア側に提供した。この RAP は、初期社会調査(ISIA)・住民意向調査(Simple Survey)結果に基づいて作成した。今後 DMS の結果・住民移転の実情等に合わせ、カボ・ジア側が補償費総額・住民移転工程等をアップデートする必要がある。Draft Resettlement Brochure はカボ・ジア側が住民説明・配布資料作成に資することを目的として作成し提供した。

3.7 DMS マニュアルの作成

DMS 実施のためのマニュアルを作成中である。住民協議の観察結果、DMS・契約交渉チームとのインタビューおよび JICA が依頼した外部モニタリング報告書を参照して標準的なマニュアルを作成する予定である。

4. 今後の予定

コンサルタント団員は帰国後最終報告書を作成する。

添付資料

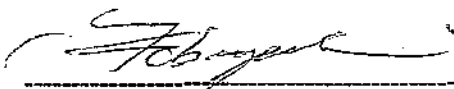
1. Technical Note
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TECHNICAL NOTES

Improvement of National Road No.1 (Phnom Penh – Neak Loeung Section)

Discussions were held between JICA and the IRC of RGC from March 7, 2005 to March 17, 2005 on the above mentioned project. In the course of discussions, both sides confirmed the items described below. This Note was prepared for the purpose of recording and sharing the main points of the discussions between JICA's mission for Basic Design Study and Preparatory Study and the Cambodian side. Views expressed in this note are those of JICA's missions and do not necessarily reflect those of JICA or of the Government of Japan.

Phnom Penh, March 17, 2005



Yoshitoshi Kobayashi
Specialist,
Preparatory Study Team



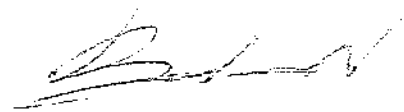
Dr. Chhorn Sopheap
Head of Resettlement Unit
Inter-ministerial Resettlement Committee,
Ministry of Economy and Finance

Witness



Takao Fukuma
Specialist
Basic Design Study Team

Witness



Ben Daramony
Chief of Division
Projects for Bilateral Cooperation,
Ministry of Economy and Finance

Discussed and Agreed;

1. Content of Report to be submitted to the Japanese side through JICA Cambodian Office at the end of March, 2005.
The Cambodian side will prepare and submit their report including the details indicated in the attached format by March 31, 2005. (Attachment 1)
2. Application of New Compensation Items and Unit Rates agreed between MEF and ADB.
The Cambodian side confirmed that the revised compensation items and unit rates to be agreed between MEF and ADB shall be applied for PAPs in Phase 1 who agreed already, and all PAPs expected onward in the captioned project.
3. Review of the Present Compensation Rate List of February, 2000
The Cambodian side will answer to JICA on this issue, following to JICA Mission's letter of March 16, 2005 (Attachment 2)
4. Formation of Grievance Committee
It was confirmed that formation of Grievance Committee was approved by IRC Chairman on March 17, 2005 and his instruction was issued to the Governor of Kandal Province on March 18, 2005 (Attachment 3). The Governor of Kandal Province shall publicize the member and function of Grievance Committee by Gazette at each of related offices of the Province, Districts and Communes.
5. Schedules onward on DMS for Stage 2 and Stage 3.
The Cambodian side will follow the schedules in Stage 2 and Stage 3 as indicated in the attached format (Attachment 4).

Content of Report submitted to Japan Side at the End of March 2005

1. Present Situation of Obtaining Agreement of Compensation from PAPs for Phase Section including Bridges No. 2 and 3

- 1) For assets to be compensated in related to other than Bridges No.2 and No.3

Table 1.1 Summary of Agreed and Disagreed Numbers

	Record	Household
Agreed		
Disagreed		
Unable to contact the owner		
Total		

Note: Relocation sites are being prepared for 142 PAPs relocated to the relocation sites.

- 2) For assets to be compensated in related to Bridges No.2 and 3 that could affect severely.

Table 1.2 Summary of Agreed and Disagreed Numbers

		Record	Household
No.2 Bridge	Agreed		
	Disagreed		
	Unable to contact the owner		
	Total		
No.3 Bridge	Agreed		
	Disagreed		
	Unable to contact the owner		
	Total		

Note: No relocation site is required for Bridges No. 2 and No.3 sites.

- 3) For assets of 218 records to be not compensated because of being easily movable assets, such as stall and stand.

Table 1.2 Summary of Agreed and Disagreed Numbers

	Record	Household
Agreed		
Disagreed		
Unable to contact the owner		
Total	218	

- 4) Reasons of disagreement in each case for above

Table 1.4 Content of Disagreement (please describe for all PAPs who disagree)

No.	Reasons of Disagree
1	
2	
3	
4	

- 5) Proposed measures to be taken in the purpose to obtain agreement of 100%

Please describe full detail of your proposal here.

2. Present Situation of Obtaining Relocation Sites

- 1) Negotiation results for relocation site(s)

Table 2.1 Summary of Relocation Sites Information

	Date of Contract	Address	Area, m ²	Contract Amount, \$	Attachment of photo, drawing(layout) or map
No.1					Photo
No.2					
No.3					

- 2) Reason of Not Agreed, if any

Table 2.2 Content of Disagreement

No.	Reasons of Disagree
1	
2	
3	

- 3) Proposed measures to be taken in the purpose to obtain agreement

Please describe full detail of your proposal here.

- 4) Facilities to be prepared in the relocation sites

Table 2.3 List of Facilities prepared in the Relocation Sites

	Enough Formation Level for Flooding	Pumping Well	Toilet	Drain for Toilet	Access
No.1	Yes	Yes	Yes	Yes	Yes
No.2					
No.3					

資料2

3. Explaining Relocation Sites for PAPs, who are to be relocated to the Relocation Site, and Obtaining Agreement from Them

1) Detail of Public Information Meetings for Relocation Sites

Table 3.1 Outline of Public Information Meeting for the Relocation Sites

	Date of Meeting	PAPs who are to be relocated to the relocation site		Minutes of Meeting including Participants PAPs List
		Number of PAPs to be relocated	Number of Participant	
No.1				Yes, as attached
No.2				
No.3				

2) Present Situation of Obtaining Agreement from PAPs who are to be relocated to the relocation sites

Table 3.2 Summary of Agreed and Disagreed Numbers

	Household
Agreed	
Disagreed	
Unable to contact the owner	
Total	142

3) Reason of Not Agreed, if any

Table 3.3 Content of Disagreement

No.	Reasons of Disagree
1	
2	
3	
4	
5	

4) Proposed measures to be taken in the purpose to obtain agreement

Please describe full detail of your proposal here.

APPENDIX

Please put necessary data if any.

March 16, 2005

Dr. Chhorn Sopheap
Head of Resettlement Unit
MEF, RGC

Attention: Mr. Ben Daramony
Chief of Division
Projects for Bilateral Cooperation
Resettlement Unit,

Project: Improvement of National Road No.1 (Phnom Penh – Neak Loeung Section)
Subject: Confirmation and review of compensation items/unit rate established in Year 2000

Dear Sirs,

I would like you to refer to the Minutes of Discussion signed between your Excellency Nean Leng and JICA Study Teams made on October 28, 2004 and January 27, 2005 with respect to the above-mentioned subject. In the Minutes, the Cambodia side agreed to report its results of study to the Japan side through JICA Cambodia Office before the end of August 2005.

For preparing your said report, you are kindly requested to explain therein the followings in writing:

1. Procedure establishing those unit rates

- 1) How the unit rates in 2000 were established and what kinds of indices were used?
- 2) How are you working or planning to update those unit rates of 2000 ?
- 3) Please explain your process of review, indicating specific time frame till the end of August 2005.
- 4) If you plan to form any committee or unit for the purpose, please explain the formation and members of it for the duty or designate responsible office.

2. Any additional compensation items

There might be some compensation items which are not included in the existing compensation contents such as economic losses of shops, training, installation cost of slope and steps, land filling cost carried out by PAPs themselves etc.

- 1) Please answer if you are planning any of them might be added or not for the present JICA project?
- 2) If not, please explain the reasons of each of them.

3. Compensation Items and Unit Rates agreed between MEF and ADB

We understand that the discussions were held recently between MEF and ADB Mission to Cambodia.

- 1) Please explain and provide any information agreed between two parties or progress of the discussion, in case that they have not still finalized yet , if there are Minutes of Discussion and /or Minutes of Understanding.

- 2) Please confirm that you are going to apply the revised compensation items and unit rates agreed between MEF and ADB to even PAPs of Phase I of the JICA project , to whom DMS completed and all agreement made already.

Thank you very much for your kind attention and we are eager for your written answer to us on the above items.

Yours faithfully,



Yoshitoshi Kobayashi

Specialist.

The Preparatory Study II on the Confirmation of Environmental and Social Considerations
for Improvement of National Road No.1 (Phnom Penh – Neak Loeung Section)

CC: Mr. Tomohiro Ono, Assistant Resident Representative. JICA Cambodia Office

Unofficial Translation

Kingdom of Cambodia

Nation Religion King

Ministry of Economy and Finance

No. 1219 SHV

Phnom Penh March 17, 2005

ATTENTION TO:**H.E. Khim Bo, Deputy governor of Kandal Province
and Chief of Sub-Provincial Committee**

Objective: Request for establishment of Grievance Committee for solving all the complaints from people who are affected by the project for improvement of National Road No.1 (Phnom Penh – Neak Leoung).

Reference: JICA's letter No. JC16-990 dated 18 February 2005.

As has been mentioned in the above objective and reference, I would like to inform His Excellency that in order that the settlement of all grievances from project affected people goes smoothly and transparently, Japan International Cooperation Agency has requested us to establish a Grievance Committee, which are comprised of some members from concerned departments, local authority and a representative of community, for solving all the above-mentioned grievances.

The grievance committee in district or provincial level has capability to solve any grievances which have been conveyed. In this process, the chief of village, commune will be given the priority to be responsible for 10 days after receiving the grievances. The objective of the process of solving the grievances is to examine and provide transparency for all settlements of PAPs's grievances. Therefore, the grievances should be discussed with PAPs and responsible authority in commune or district level first to reach solutions. However, PAPs have the right to request for solving their grievances in the provincial level afterward.

For this reason, please examine and arrange accordingly.

Please accept, Your Excellency, my sincere regards.

**On behalf of Minister of Economy and Finance
Chairman of Inter-ministerial Resettlement Committee
Undersecretary of State**

Nhean Leng

March 16, 2005

The Preparatory Study on the Confirmation of Environmental and Social Considerations for Improvement of National Road No.1 (Phnom Penh-Neak Loeung Section)

Schedules and Milestone

1. DMS for Stage 2 and Stage 3 Sections

1) Stage 2 Section (STA13.1km~STA23.9km) (Negotiation for STA.23.9 km to Ending Point completed)

March 10, 2005	Receiving Final Drawings of JICA Study for Scheduling and Budgeting purpose
March 23	Application of Budget for DMS to MEF
March 30	Approval of Budget by MEF
April 1	Printing of Resettlement Brochure for PAPs
	*JICA to contract External Monitor
April 3~9	Public Information Meetings
	*JICA External Monitoring
April 20	Commencing Demarcation, DMS and Negotiation : 3.5 months
	*JICA External Monitoring
May 31	Completion of DMS in field
July 31	Completion of Negotiation obtaining Agreement from all PAPs in principal
Sept., 30	Completion of Agreement of Land Acquisition for Relocation Sites
October 20	Completion of Agreement of all PAPs who are to be relocated to the relocation sites about the relocation sites
October 25	Approval of RGC on Negotiation Results
October 31	<u>Official Notice to JICA on Completion in obtaining all PAPs Agreement</u>

2) Stage 3 Section (Start P.~STA13.1km)

Note: The due dates indicated below are set based on the procedures for budget allocation of Japan's Grant Aid Project. However, it is strongly requested that DMS for Stage 3 should be commenced and completed as early as possible.

Nov., 2006	Application of Budget for DMS to MEF
Mid. Dec.,	Approval of Budget by MEF
December 30	Printing of Resettlement Brochure for PAPs
	*JICA to contract External Monitor
January 7~14	Public Information Meetings
	*JICA External Monitoring
January 15	Commencing Demarcation, DMS and Negotiation : 6.5 months
	*JICA External Monitoring

March 31 Completion of DMS in field
 July 31 Completion of Negotiation obtaining Agreement from all PAPs in principal
 Sept., 30 Completion of Agreement of Land Acquisition for Relocation Sites
 October 20 Completion of Agreement of all PAPs who are to be relocated to the relocation sites about the relocation sites
 October 25 Approval of RGC on Negotiation Results
 Oct., 31, 2007 Official Notice to JICA on Completion in obtaining all PAPs' Agreement

2. Review of the Present Compensation Price List of February 2000

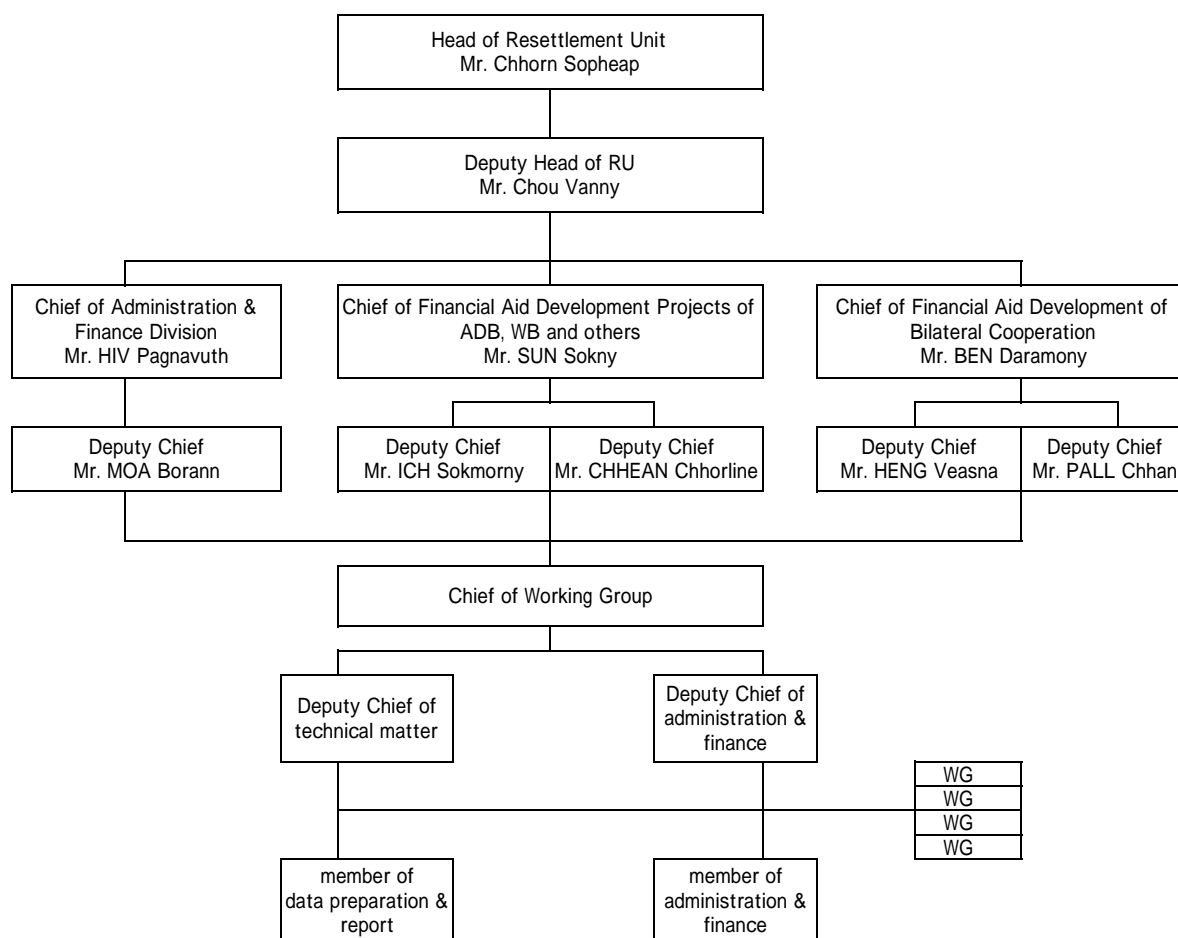
November 2004 Submission of Proposal from RGC to ADB
 _____ Receiving ADB Review Report on the Analysis, or
 _____ Receiving ADB answer
 _____ Commencement of Analysis of ADB Answer by ADB Division IRC
 _____ Approval of Minister of MEF
 _____ Sending RGC's final proposal to ADB
 _____ Agreement of ADB

August 31, 2005 Official report to JICA on reviewing results on Compensation Price List

3. Organizing Grievance Committee (GC)

Feb. 7, 2005 Receiving a Proposal on Member Formation from NGO Forum
 March 14 Approval by IRC Chairman on Formation of GC
 March 15 Instruction by IRC Chairman to Governor of Kandal Province on Formation and Selection of GC Members in one week.
 March 22 Official Publication of GC Members and Function by Gazette each of related offices of Province, Districts and Communes.

Organization Chart of Resettlement Unit



14 Jan 2005



Asian Development Bank{PRIVATE}
MEKONG DEPARTMENT

10 January 2005

H.E. Keat Chhon
Senior Minister
Minister of Economy and Finance
St. 92, Sangkat Wat Phnom
Khan Daun Penh
Phnom Penh, Cambodia

Excellency,

Technical Assistance for Enhancing the Resettlement Legal Framework and Institutional Capacity (TA 4490-CAM)

We are pleased to inform you that on 18 December 2004, the Asian Development Bank (ADB) approved the provision of technical assistance (the Technical Assistance) to the Kingdom of Cambodia (the Government) in an amount not exceeding the equivalent of \$400,000 for Enhancing the Resettlement Legal Framework and Institutional Capacity. The Technical Assistance will be financed and carried out pursuant to (i) the Technical Assistance Framework Agreement between the Government and ADB, dated 2 August 1995, and (ii) the arrangements described in paragraphs 11 to 15 and Appendix 2 of the Technical Assistance report (the TA Report) attached hereto as Annex 1. As indicated in the TA Report, the Ministry of Economy and Finance (MEF) will be the Executing Agency for the Project.

The Technical Assistance will be provided entirely as a grant.

If these arrangements are acceptable to you, kindly have both copies of this letter countersigned on behalf of the Government in the space indicated below. Please retain one copy for your records and return one original to ADB.


The undersigned will henceforth be responsible for all matters pertaining to the implementation of the Technical Assistance. All communications on this matter may, therefore, be addressed to him.

Yours sincerely,


Urooj Malik
Director
Infrastructure Division
Mekong Department

CONFIRMED:

On behalf of the Government



Name:

Designation:

Date: 14/March/05

cc: S. Bajpai, Country Director, Cambodia Resident Mission

6 ADB Avenue, Mandaluyong City, 1401 Metro Manila, Philippines * Postal Address 789, 0980 Manila, Philippines.
Telephone Numbers: (632) 632-4444; (632) 632-6409 Facsimile: (63-2) 636-2336

ASIAN DEVELOPMENT BANK

TAR: CAM 37535

TECHNICAL ASSISTANCE
TO THE
KINGDOM OF CAMBODIA
FOR
ENHANCING THE RESETTLEMENT LEGAL FRAMEWORK
AND INSTITUTIONAL CAPACITY

December 2004

**BOARD
OF
DIRECTORS**

ASIAN DEVELOPMENT BANK

R330-04
27 December 2004

**TECHNICAL ASSISTANCE TO CAMBODIA
FOR ENHANCING THE RESETTLEMENT LEGAL FRAMEWORK
AND INSTITUTIONAL CAPACITY**

The attached Report is circulated for the information of the Board. The President approved the technical assistance on 18 December 2004.

For Inquiries: M. Huddleston, Mekong Department
(Ext. 6409)
A. Jude, Cambodia Resident Mission
(Ext. 5509)

CURRENCY EQUIVALENTS

(as of 14 November 2004)

Currency Unit	–	riel (KR)
KR1.00	=	\$0.0002597
\$1.00	=	KR3,850.00

ABBREVIATIONS

ADB	–	Asian Development Bank
CLP	–	Council for Land Policy
EWMI	–	East West Management Institute
IRC	–	Interministerial Resettlement Committee
MEF	–	Ministry of Economy and Finance
MLMUPC	–	Ministry of Land Management Urban Planning and Construction
NGO	–	nongovernment organization
TA	–	technical assistance

TECHNICAL ASSISTANCE CLASSIFICATION

Targeting Classification	–	General intervention
Sector	–	Health, nutrition, and social protection
Subsector	–	Social protection
Theme	–	Inclusive social development
Subtheme	–	Human development

NOTE

In this report, "\$" refers to US dollars.

This report was prepared by a team consisting of M. Huddleston (team leader), Infrastructure Division, Mekong Department; A. Jude, Cambodia Resident Mission; and R. Thami, Office of the General Counsel.

I. INTRODUCTION

1. In 2000 as part of its ongoing efforts to improve policy regimes and build resettlement capacity, the Asian Development Bank (ADB) provided regional technical assistance (TA) to six developing member countries, including Cambodia.¹ The TA prepared a draft national resettlement policy for Cambodia and recommended that the draft policy be issued under the appropriate legal instrument and implemented by legal regulations using specified guidelines. In addition, it recommended institutional capacity building. ADB's 2003 Country Programming Confirmation Mission confirmed funding for TA to fulfill these recommendations, and the proposed TA for Enhancing the Resettlement Legal Framework and Institutional Capacity² was included in ADB's Cambodia Country Program for 2004. The Fact-Finding Mission visited Cambodia from 19–23 April 2004. In October 2004, the Mission and the Government reached an agreement on the Executing Agency for the TA. The Government also agreed that as a result of the TA, (i) a regulatory agency would be designated that would be separate from the financing agency, (ii) line agencies would be responsible for resettlement planning and implementation, and (iii) transitional arrangements would be necessary while the capacity of the regulatory and implementing agencies is being strengthened.

II. ISSUES

2. **Policy Issues.** The main policy issues are Cambodia's lack of a national resettlement policy and lack of a law on expropriation. The Constitution requires that the taking of land will only be in the public interest, and that fair and just compensation must be paid in advance. As a direct result of the lack of a national resettlement policy, nonformalized ad hoc procedures are used in the resettlement process, and each resettlement varies, even when resettlement is caused by projects funded by the same agency. Little or no effort has been made to address income restoration issues in resettlement projects to date, and no support mechanisms have been put in place for persons adversely affected by a project requiring resettlement.

3. **Procedural Issues.** No legal framework exists for the valuation of assets, although the Ministry of Land Management Urban Planning and Construction (MLMUPC) has begun preparation of a subdecree on land valuation. Valuation is difficult, both as a practical matter and as a result of a lack of legal framework. This has resulted in unjustified variations in value placed on structures and in nonindividualized compensation benefits as they are easier to administer although not necessarily fair in practice. No valuation of nonland or other intangible assets, such as loss of livelihood, is attempted. Members of vulnerable groups have received only limited additional financial compensation if they are affected by a resettlement project funded by ADB or World Bank. Grievance redress mechanisms have not been put in place for most resettlement projects, and when they have been, have not operated as planned.

4. **Institutional Issues.** The most prominent institutional issue is the ad hoc arrangement currently in place for resettlement efforts. The Interministerial Resettlement Committee (IRC) was formed in 1998 at the request of ADB in the absence of any local experience to implement an ADB-financed road project, and has taken the lead in all aspects of resettlement in Cambodia. The IRC has a changing membership under the chair of the Ministry of Economy and Finance

¹ ADB. 2000. *Technical Assistance for National Resettlement Policy Enhancement and Capacity Building*. Manila. The TA included follow-on work in the People's Republic of China, Indonesia, Nepal, Pakistan, and Philippines; and initiated national resettlement policy development work in one new developing member country—Cambodia.

² The TA first appeared in the *ADB Business Opportunities* (Internet edition) on 1 September 2003.

(MEF), and membership is newly constituted for each project requiring resettlement. Roles and responsibilities of project proponents and the IRC overlap, resulting in unclear lines of responsibility for resettlement, as implementation requires a complex interaction between MEF (the IRC chair), the implementing ministerial agency, and local authorities. Many projects experience significant implementation difficulties, and affected people have complained to the Human Rights Commission. ADB is conducting a resettlement audit to investigate the complaints.

5. The role of nongovernment organizations (NGOs) has been limited, based on a lack of capacity and misunderstandings with regard to their rights and responsibilities as project monitors. Monitoring and evaluation has only been performed in some projects and never for long enough, and in no instance has it worked as envisioned. The Government has frequently been uncooperative with these monitoring NGOs by withholding required documents (i.e., refusing to give them access to the very resettlement plan they were contracted to monitor), refusing to make payments if it did not agree with the results, and budgeting the contract at such a low level that adequate monitoring became difficult if not impossible. On at least one project, no action was taken by the IRC to investigate and resolve issues that had been reported by the monitoring agency. In response, NGOs have formed their own resettlement action network to respond to complaints from affected people and to initiate their own resettlement monitoring. Lessons learned from the NGO experience have been incorporated into the TA. Resettlement problems for ADB's projects in Cambodia are an accountability problem waiting to happen. Resettlement is subject to the accountability mechanism and the continued failure of Cambodia to adhere to this policy requirement is a potential cause for a compliance review to be initiated.

6. **Recommendations from the Regional TA.** The key recommendations for Cambodia from the regional TA (footnote 1) include (i) promulgation of a national legal instrument for resettlement, implemented by legal regulations and with specified enforcement procedures, using specified technical guidelines; (ii) permanent designated body to become the regulatory agency for all resettlement activities, with the authority for policy oversight and monitoring, and separated from the financing and implementing agencies; and (iii) in-country training programs and annual refresher courses in resettlement to be offered to relevant stakeholders or representative stakeholders involved in any aspect of resettlement.

7. As a follow up to the recommendations, a draft national policy on resettlement was prepared and widely discussed during a national workshop held on 27 November 2001, and endorsed by key stakeholders. The draft policy also recommended that MLMUPC be the regulatory agency to oversee policy implementation. While endorsement of this recommendation was not fully obtained during the workshop, which was chaired by the IRC chairman, agreement was reached during TA processing that MLMUPC is the logical regulatory agency, and that oversight of the resettlement legal framework is within MLMUPC's mandate.

III. THE TECHNICAL ASSISTANCE

A. Purpose and Output

8. The objectives of the TA are to help the Government (i) prepare a subdecree on compensation, resettlement, and rehabilitation for use when the state takes land owned or occupied by Cambodian nationals or residents; (ii) formulate complementary implementing regulations and technical guidelines; and (iii) develop resettlement planning, implementation, financing, monitoring, and compliance enforcement capacity. The policy, subdecree, and technical guidelines, which would be issued during the TA implementation, are intended both for internationally and domestically financed investments, and will be consistent with ADB's and

World Bank's policies on involuntary resettlement, Government legislation, and lessons learned from past projects.

B. Methodology and Key Activities

9. The TA will comprise three phases.

- (i) **Phase 1** (approximately 6 months). The Government will be assisted in undertaking the necessary consultative processes to ensure broad stakeholder agreement on key principles of the policy, subdecree, implementing regulations, and technical guidelines. The draft national resettlement policy prepared under the regional TA (footnote 1) will be used as the basis for preparing the final policy, subdecree, implementing regulations, and technical guidelines during this phase.
- (ii) **Phase 2** (approximately 6 months). The draft policy, subdecree, and implementing regulations will be submitted to the Government for approval and will be issued by the Prime Minister. The subdecree will designate an appropriate agency as the regulatory body for the subdecree. The designated regulatory agency and selected line agencies will establish and staff their resettlement divisions. A training-needs assessment will be undertaken, and a capacity-building and dissemination plan and training materials prepared for implementation during the TA and beyond.
- (iii) **Phase 3** (approximately 9 months). The new legal instruments and guidelines will be disseminated widely and the training program will be initiated, including trials and tests of new materials and training approaches, and participatory monitoring and evaluation to assess results attributable to the training programs and perceived needs. Training will be focused on the designated regulatory agency; line agencies; provincial, district, and local staff undertaking resettlement planning and implementation; judiciary; the Land Management Department of the Royal University of Agriculture; and domestic consultants, NGOs, and academic or research institutions that could undertake resettlement monitoring, or be otherwise involved in resettlement activities.

10. The policy, subdecree, implementing regulations, and technical guidelines will address the following issues: (i) the need to specify procedures and requirements for resettlement planning, as preconditions for project approval; and for reviewing, approving, implementing, monitoring, and evaluating resettlement plans; (ii) confirmation of the overarching principle of at least restoring the incomes and living standards of the people affected, and improving the incomes and living standards of the poor and vulnerable groups affected; (iii) this will be achieved through compensation to replace lost assets, livelihood and income, assistance for relocation including provision of relocation sites with appropriate facilities and services; and assistance for rehabilitation to achieve at least the same level of well-being with a project as without it, such as skills training and microcredit; (iv) development of procedures for relocation site development, including procedures for mobilizing the necessary finances; (v) provision for consultation with people affected and for grievance redress mechanisms, including gender and ethnic balance on grievance committees; (vi) development of procedures to mobilize the necessary budgets; (vii) incorporating gender concerns into resettlement including gender-specific consultation and information disclosure, and special attention to guarantee women's assets, property, and land-use rights; and (viii) methodologies for calculating compensation for permanent and temporary losses equivalent to market value.

C. Cost and Financing

11. The total cost of the TA is estimated at \$480,000 equivalent, comprising \$230,000 of foreign exchange costs and \$250,000 equivalent of local currency costs. ADB will provide \$400,000 equivalent, covering the entire foreign exchange cost and \$170,000 equivalent of the local currency costs. The TA will be financed on a grant basis by ADB's TA funding program. The Government will finance the balance of the local currency costs, equivalent to \$80,000, in kind through the provision of counterpart and support staff, office accommodation, administrative support, and other related services and facilities. ADB financing will cover the costs of consultants, workshops, seminars, training, equipment, publications, communications, translation/interpretation, and travel. The World Bank fully supports the TA and will provide \$25,000 on a parallel grant basis to finance an assessment of the key institutional requirements, including capacity improvements, required nationally to implement the legal subdecree. Tentative details of the cost estimates and financing plan are provided in Appendix 2.

D. Implementation Arrangements

12. **Executing Agency.** MEF will be the Executing Agency. The IRC chair will be the TA director. A working group will be formed with MEF as chair and MLMUPC as vice chair, under the technical direction and support of the Council for Land Policy (CLP) and the IRC. Other members of the working group will include representatives of Électricité du Cambodge, Ministry of Industry and Energy, Ministry of Interior, Ministry of Public Works and Transport, Ministry of Water Resources and Meteorology, and Ministry of Women's Affairs.

13. **Implementing Agency.** MLMUPC will be the Implementing Agency. The Council for Land Policy under MLMUPC will provide technical direction and support. MLMUPC will provide office space and administrative support for the TA, and will assign at least two technical specialists to work closely with the international and domestic consultants. NGOs experienced with resettlement in Cambodia will be consulted, participate in reviewing the document drafts, and be involved in the training needs assessment and training of trainers.

14. **Selection of Consultants and Procurement.** The TA will require a total of 28 person-months of consulting services (10 person-months for international and 18 person-months for domestic consultants). Outline terms of reference are in Appendix 3. ADB will recruit, through direct selection, the nonprofit organization, East West Management Institute (EWMI). The institute has been working at MLMUPC since July 2001 on two ADB-funded TAs that are complementary to and set the stage for this TA.³ EWMI has established strong working relationships with the key stakeholders at MLMUPC, CLP, relevant Government officials, NGOs, educational and legal institutions, all of which can be immediately tapped for the TA. Their

³ ADB. 2000. *Technical Assistance to the Kingdom of Cambodia for Implementation of Land Legislation*. Manila, and ADB. 2003. *Technical Assistance to the Kingdom of Cambodia for Implementation of Land Legislation—Phase 2*. Manila. Specifically, EWMI has assisted MLMUPC and CLP to (i) develop and implement participatory policymaking and legislative drafting processes; (ii) develop a broad range of public awareness materials for the stakeholders for this TA; (iii) develop training materials and a definitive textbook on Cambodian land law for land and law professionals to be revised by EWMI to include new material about resettlement; and (iv) develop procedures for investigation and conciliation of land disputes, develop training materials, and conduct training on investigating and conciliation of land disputes. EWMI has an established TA office and staff in MLMUPC, which can be applied to the TA as part of the Government's in-kind contribution, and would require minimal TA start-up time. As a nonprofit organization, EWMI's overhead is low, leaving more of the limited TA funds for essential capacity building.

strong relationship with MLMUPC and CLP is particularly important given that resettlement will be very new for them, and having experienced consultants whom they know and trust will make for a smoother process. The TA will finance international and domestic consultants with expertise in Cambodian land-related legal procedures, resettlement policy development, indigenous peoples, asset valuation, land management assessment, poverty assessment, applied social research, participatory approaches, gender analysis, training needs assessment, and training of trainers. The consultants will be engaged by ADB according to ADB's *Guidelines on the Use of Consultants*. Office equipment will be procured in accordance with ADB's *Guidelines for Procurement*.

15. **Implementation Schedule, TA Review, and Reporting.** The TA is proposed to be implemented over 24 months, from February 2005 to February 2007. The output from phase 1 will be the complete drafts of (i) the national resettlement policy, (ii) the subdecree on resettlement, (iii) implementing regulations, and (iv) technical guidelines. The outputs of phase 2 will be (i) issuance by the Prime Minister of the approved policy and subdecree, (ii) issuance of implementing regulations and technical guidelines, and (iii) an established resettlement division within the designated regulatory body with staff ready to be trained under phase 3, and a training needs assessment. The outputs of phases 1 and 2 will be of good international standard acceptable to ADB, and will be produced in both English and Khmer languages. The outputs from phase 3 will be (i) the final training program, together with training materials and evaluation reports from the trial application of the training program; (ii) resettlement trainers trained through a training-of-trainers approach; and (iii) delivery of initial resettlement training to key Government agencies and entities. By the time phase 3 is reached, hopefully a commitment will have been obtained for alternative financing for additional capacity development.

IV. THE PRESIDENT'S DECISION

16. The President, acting under the authority delegated by the Board, has approved the provision of technical assistance not exceeding the equivalent of \$400,000 on a grant basis to the Government of Cambodia for Enhancing the Resettlement Legal Framework and Institutional Capacity, and hereby reports this action to the Board.

TECHNICAL ASSISTANCE FRAMEWORK

Design Summary	Performance Indicators and Targets	Monitoring Mechanisms	Assumptions and Risks
Goal <ul style="list-style-type: none"> Restore economic and social conditions for people affected by involuntary resettlement, and improve economic and social conditions for the poorest and vulnerable affected people due to involuntary resettlement. 	<ul style="list-style-type: none"> Resettlement planning documents prepared for all new projects consistently meet international good standards Resettlement planning objectives on all new projects to include restoration of socioeconomic conditions for all affected people, and improved socioeconomic conditions for the poorest and vulnerable Access to services on new resettlement projects meet or exceed pre-technical assistance (TA) levels Access to social support networks on new resettlement projects meet or exceed pre-TA levels Project approvals and implementation consistently meet international good practice 	<ul style="list-style-type: none"> Review of resettlement planning documents Evaluations of implementation of resettlement plans for both domestically and internationally funded projects Resettlement reviews Independent monitoring reports Resettlement plans and review of project processing and approval reports 	
Purpose <ul style="list-style-type: none"> Develop a national policy and regulatory framework on involuntary resettlement consistent with international standards. Develop resettlement planning, implementation, financing, monitoring, and compliance enforcement capacity consistent with the new policy and regulatory framework. 	<ul style="list-style-type: none"> Subdecree, implementing regulations, and technical guidelines issued consistent with international standards (within 12 months of inception) Improved resettlement planning, implementation, monitoring, and compliance enforcement during the transition period of the TA (within 12 months of inception) 	<ul style="list-style-type: none"> Copies of subdecree, implementing regulations, and technical guidelines Progress reports of line agencies Asian Development Bank (ADB) resettlement supervision reports 	Assumptions <ul style="list-style-type: none"> Political will to address resettlement continues to deepen Legal instruments developed meet international standards; and are approved, consistently implemented, and fully financed Momentum continues to ensure streamlined and efficient investment procedures together with safeguards for affected people Risk <ul style="list-style-type: none"> Government

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Design Summary	Performance Indicators and Targets	Monitoring Mechanisms	Assumptions and Risks
			commitment to the TA but not to following the spirit of the TA in day-to-day activities outside of the TA
Outputs Phase 1 <ul style="list-style-type: none"> Draft subdecree, implementing regulations, and technical guidelines that meet international standards and have been prepared through a consultative and participatory process 	<ul style="list-style-type: none"> Draft subdecree, implementing regulations, and technical guidelines incorporating ADB's comments and the relevant comments of other stakeholders (within 6 months of inception) 1 national consultation workshop (line agencies, provinces, nongovernment organizations (NGOs), academic institutions) 	<ul style="list-style-type: none"> Copy of draft subdecree Copy of draft implementing regulations Copy of draft technical guidelines Report on stakeholder consultations 	Assumptions <ul style="list-style-type: none"> Government's commitment to attaining international standards will be maintained Consultations will be transparent and meaningful TA consultants will be effective Risks <ul style="list-style-type: none"> The TA consultants and/or TA director may not be able to facilitate meaningful and equal participation of all members of the working group Consultations will not be meaningful and effective
Phase 2 <ul style="list-style-type: none"> National policy and regulatory framework on involuntary resettlement strengthened consistent with international standards Measures prepared and adopted for strengthening capacity for resettlement planning, implementation, monitoring, and compliance 	<ul style="list-style-type: none"> Subdecree on involuntary resettlement consistent with international standards issued by Prime Minister (within 12 months of inception) Regulatory agency designated by appropriate legal instrument (within 12 months of inception) Resettlement divisions established in regulatory agency, selected line agencies (within 12 months of inception) Implementing regulations and technical guidelines issued by designated regulatory agency (within 15 months of inception) Training needs assessment for 	<ul style="list-style-type: none"> Copy of subdecree Copy of implementing regulations Copy of technical guidelines Copy of training needs assessment Copy of training materials and plan Reports from regulatory and line agencies on establishment of resettlement divisions Resettlement division established within the regulatory agency Copy of capacity building plans 	Assumptions <ul style="list-style-type: none"> Government's commitment to attain international standards is maintained Roles and responsibilities for resettlement financing will be separated from resettlement regulation and from resettlement planning and implementation Resettlement financing will be separate from monitoring Risks <ul style="list-style-type: none"> The subdecree will not be consistent with international standards

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Design Summary	Performance Indicators and Targets	Monitoring Mechanisms	Assumptions and Risks
	designated agencies, provinces, districts (within 9 months of inception) <ul style="list-style-type: none"> Training materials and plan (within 9 months of inception) 		
Phase 3 <ul style="list-style-type: none"> New legislation and technical guidelines disseminated to Government agencies, provinces Capacity for resettlement planning, implementation, monitoring, and compliance strengthened Needs for ongoing capacity strengthening coordinated with development partners 	<ul style="list-style-type: none"> 1 central level workshop to disseminate new legal instrument and technical guidelines to line agencies, educational and judicial entities, and NGOs (within 15 months of inception) At least 8 provincial workshops for provincial and district government staff and local NGOs (within 20 months of inception) Pilot tests of training (within 10 months of inception) Training and capacity building (12–24 months after inception) Participatory monitoring and evaluation of each training workshop Dissemination to and consultation with development partners 	<ul style="list-style-type: none"> Workshop reports and evaluations Pilot test of training reports Adjusted training strategy and materials Records of capacity-building activities Reports on participatory monitoring and evaluation of effectiveness of capacity building Reports on development partner consultation 	Assumptions <ul style="list-style-type: none"> Political will exists to support the new legal instruments and technical guidelines Government agencies participate in the capacity-building program Risks <ul style="list-style-type: none"> Insufficient TA funds to accomplish sufficient capacity building Other funds not forthcoming for ongoing capacity building post-TA
Activities Phase 1 <ul style="list-style-type: none"> Prepare new subdecree. Prepare implementing regulations. Prepare technical guidelines. Conduct workshops and consultations. 			Assumptions <ul style="list-style-type: none"> Active and meaningful participation of working group Meaningful and effective consultations Risk <ul style="list-style-type: none"> Meaningful and effective consultations are not possible
Phase 2 <ul style="list-style-type: none"> Issue subdecree. Issue implementing regulations. Issue technical guidelines. Designate responsible agencies. Establish resettlement divisions. Prepare training needs 	<ul style="list-style-type: none"> Subdecree signed by Prime Minister Implementing regulations and technical guideline issued by regulatory agency Training needs assessment, training 	<ul style="list-style-type: none"> Copy of subdecree, implementing regulations and technical guidelines Copy of training needs assessment Copy of draft training materials and strategy 	Assumptions <ul style="list-style-type: none"> Political will exists to support the subdecree Risk <ul style="list-style-type: none"> Government will not adopt the subdecree

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Design Summary	Performance Indicators and Targets	Monitoring Mechanisms	Assumptions and Risks
assessment for designated agencies, provinces, and districts. • Prepare training materials and plan.	materials, and strategy		
Phase 3 • Conduct national workshops to disseminate new legislation. • Implement and evaluate pilot tests of training and necessary adjustments made. • Conduct training. • Evaluate effectiveness of training and assess further training/capacity-building needs. • Consult with development partners about follow-up capacity building requirements and commitments.	• Workshops for all relevant line agencies, 24 provinces, and a selected number of districts • Legislation disseminated to development partners • Pilot test of training in Phnom Penh and one province • Training conducted according to the adjusted strategy	• Workshops materials and report • Report on pilot test of training, including participatory monitoring and evaluation of training • Adjusted training materials and strategy • Training report and evaluation and assessment of needs • Report on consultation with development partners	Assumptions • Government agencies, provinces, and districts will participate in workshops and training
Inputs Consulting services: 10 person-months international, 18 person-months domestic Equipment, vehicle rental Workshops, consultation Training TA implementation Contingency Total Government financing ADB financing Project working group ADB supervision	\$236,000 \$ 10,000 \$ 30,000 \$ 89,000 \$ 15,000 \$ 20,000 \$400,000 \$ 80,000 \$400,000	• TA contracts • TA accounts • TA outputs ADB review mission reports	Assumption • Capable consultants with requisite skills mix will be engaged Risk • ADB does not have resources for supervision

COST ESTIMATES AND FINANCING PLAN
(\$'000)

Item	Foreign Exchange	Local Currency	Total Cost
A. Asian Development Bank Financing^a			
1. Consultants			
a. Remuneration and Per Diem			
i. International Consultants	150.0	0.0	150.0
ii. Domestic Consultants	0.0	50.0	50.0
b. International and Local Travel	20.0	10.0	30.0
c. Reports/Communications	1.0	5.0	6.0
2. Equipment ^b	10.0	0.0	10.0
3. Training, Seminars, and Workshops			
a. Training Program including Follow-Up Monitoring	39.0	50.0	89.0
b. Workshops	0.0	30.0	30.0
4. Miscellaneous Administration and Support Costs	0.0	15.0	15.0
5. Contingencies	10.0	10.0	20.0
Subtotal (A)	230.0	170.0	400.0
B. Government Financing			
1. Office Accommodation and Transport	0.0	20.0	20.0
2. Remuneration and Per Diem of Counterpart Staff	0.0	50.0	50.0
3. Others	0.0	10.0	10.0
Subtotal (C)	0.0	80.0	80.0
Total	230.0	250.0	480.0

^a Financed by the Asian Development Bank's technical assistance funding program.

^b Equipment to include computers, printer, fax machine, photocopier.

Source: Asian Development Bank estimates.

OUTLINE TERMS OF REFERENCE FOR CONSULTANTS

1. The technical assistance (TA) will consist of three phases (i) preparation of a policy, subdecree, implementing regulations, and technical guidelines for involuntary resettlement; (ii) issuance by the Government of the policy, subdecree, implementing regulations, and technical guidelines; and conduct of a training needs assessment; and (iii) design and delivery of a dissemination, training, and capacity-building program.

A. Phase 1. Preparation of a Policy, Subdecree, Implementing Regulations, and Technical Guidelines for Involuntary Resettlement

2. The work to be undertaken in this phase will draw on the findings of the regional TA National Resettlement Policy Enhancement and Capacity Building;¹ review of existing land-related legal instruments, relevant documentation from past and ongoing Asian Development Bank (ADB) and World Bank financed projects; and consultation with a wide range of stakeholders. In relation to the objective and scope of the TA, the consultants' scope of work will include the following:

- (i) Review the Cambodian Final Draft National Resettlement Policy and other reports of the regional TA (footnote 1) with special reference to its recommendations for
 - (a) a subdecree on involuntary resettlement promulgated and implemented by legal regulations using specified guidelines;
 - (b) regulations to be enacted into law to cover all aspects of the resettlement process, with a designated regulatory body having the authority to oversee and monitor the process;
 - (c) detailed guidelines for resettlement planning and implementation to be prepared to address, among others, grievance redress mechanisms, detailed procedures for valuation of affected assets, procedures for budgetary provisions, and procedures for monitoring and evaluation;
 - (d) a permanent designated body to become the regulatory agency for all resettlement activities, with its choice based on the responsibilities of various agencies with regard to issues relevant to resettlement;
 - (e) designated regulatory body to initiate promulgation of the national resettlement policy, and ensure compliance with the national policy and resettlement guidelines; and
 - (f) in-country training programs and annual refresher courses in resettlement to be conducted for relevant stakeholders and representative stakeholders with separate training modules for each relevant institution, and domestic consultants to participate in resettlement plan preparation and be responsible for monitoring and evaluation with the nongovernment organization (NGO) or agency contracted for this purpose.
- (ii) Review all existing legal instruments including those related to the urban sector, agriculture, and the environment (which is likely to refer to social impacts), the Constitution, the 2001 Land Law, the Social Land Concessions Subdecree, procedures for investigation and conciliation of land disputes, the participatory policymaking and legislative drafting process of the Council for Land Policy, and the property valuation and taxation and land titling documentation prepared

¹ ADB. 2000. *Technical Assistance for National Resettlement Policy Enhancement and Capacity Building*. Manila

- under the Land Management and Planning Project. Ensure harmonization with the draft policy, subdecree, implementing regulations, and technical guidelines.
- (iii) Provide a gender analysis of the land/resettlement policy and practices in Cambodia and how to ensure that, at all stages, resettlement identification, planning, and management will ensure that gender concerns are incorporated, including gender-specific consultation and information disclosure. This should include special attention to guarantee women's assets, property, and land-use rights; and to ensure the restoration of their income and living standards.
 - (iv) Review project-based resettlement planning documents and monitoring reports of ADB- and World Bank-financed projects in Cambodia, as well as the findings of the resettlement audit for Greater Mekong Subregion: Phnom Penh to Ho Chi Minh City Highway Project,² to establish a basis of good practice in the development of entitlements, establishment of rates for assets, income restoration, planning, consultation, and disclosure arrangements.
 - (v) Prepare a comprehensive review of the situation of the urban poor in Cambodia in terms of housing and shelter, land titles, and other issues in the context of the Cambodian legal framework. Recommend provisions in the resettlement subdecree or other legislation to address the issues raised.
 - (vi) Prepare a comprehensive review of the situation of occupation and use of road rights of way vis-à-vis the Government Declaration No. 6 on Eliminating Solution on Anarchy of Land Occupation, dated 27 September 1999. Recommend provisions in the resettlement subdecree or other legislation to address issues raised.
 - (vii) Prepare a comprehensive review of the situation of ethnic minority peoples in Cambodia in terms of legal rights to land and compensation. Recommend provisions in the resettlement subdecree.
 - (viii) Review the policy and legal framework in Cambodia to assess the points of linkage between the new subdecree and implementing regulations and technical guidelines, and related legal documents, including the Constitution, the 2001 Land Law, the Social Land Concessions Subdecree, and related subdecrees.
 - (ix) Conduct a desk review and consultations on the impact of resettlement projects on indigenous people generally to determine the specific issues that should be considered when drafting the policy, subdecree, implementing regulations, and technical guidelines.
 - (x) Liaise with the relevant agencies in Cambodia, and review resettlement projects in Cambodia that have involved displacement of indigenous peoples.
 - (xi) Identify areas of displacement-related risks, mitigation, consultation, poverty reduction, and protection of indigenous rights and culture systems.
 - (xii) Provide specialist advice on enhancing policy and legal frameworks, and strengthening institutional arrangements with respect to indigenous peoples and involuntary resettlement.
 - (xiii) Assist the working group to prepare a final policy, and a subdecree, implementing regulations, and technical guidelines for compensation, resettlement, and rehabilitation in cases where the state recovers land and property from its citizens, such that the subdecree reflects ADB's policy on involuntary resettlement and World Bank's Operational Policy 4.12, and lessons

² ADB 1998. *Report and Recommendations of the President to the Board of Directors on Proposed Loans to the Kingdom of Cambodia for the Greater Mekong Subregion: Phnom Penh to Ho Chi Minh City Highway Project*. Manila.

learned from past projects. Link the implementing regulations to the Government's project approval cycle. The sector guidelines are to include simple but targeted indicators to help line agencies identify potential risks and planning document requirements.

- (xiv) Help the working group develop the regulatory framework, institutional framework, and procedures for resettlement planning, implementation, and monitoring.
- (xv) Liaise, as necessary, with the related national agencies including Électricité du Cambodge, Interministerial Resettlement Committee, Ministry of Economy and Finance (MEF), Ministry of Industry and Energy, Ministry of Interior, Ministry of Land Management Urban Planning and Construction (MLMUPC), Ministry of Public Works and Transport, Ministry of Water Resources and Meteorology, Ministry of Women's Affairs, and relevant provincial agencies.
- (xvi) Help MEF and MLMUPC organize national workshops and consultations, identifying key stakeholders as necessary, from government and civil society, including representatives of people affected.
- (xvii) Organize the translation of key documents from Khmer into English, and vice versa.

B. Phase 2. Training Needs Assessment and Preparation of Capacity Improvement Strategy and Training Program

3. Activities include the following:

- (i) In coordination with the World Bank-financed assessment of key institutional requirements for implementing the subdecree and related regulations and guidelines, assess the capacity improvements required nationally for implementation.
- (ii) Undertake a training needs assessment at national, provincial, district, local, and line agencies, as necessary, for resettlement planning, implementation, monitoring, and compliance.
- (iii) Design a capacity improvement strategy and detailed training program to be implemented during phase 3 of the TA and beyond. Prepare training materials.
- (iv) Prepare a plan and materials for disseminating the approved policy, subdecree, implementing regulations, and technical guidelines to the public and relevant entities.
- (v) Help the designated regulatory body and selected line agencies establish their resettlement divisions and provide guidance on staffing.
- (vi) Coordinate inclusion of new material about resettlement in the definitive textbook on Cambodian land law that was developed for, and used in the training of judges, legal practitioners, and institutions of higher education prepared under TA 4181.³

C. Phase 3. Dissemination, Training, and Capacity-Building Program

4. Activities include the following:

- (i) Disseminate the approved policy, subdecree, implementing regulations, and technical guidelines according to the plan prepared during phase 2.

³ ADB. 2003. *Technical Assistance to Cambodia for Implementation of Land Legislation—Phase 2*. Manila.

- (ii) Test the training materials and training program, and revise the program and materials based on participatory evaluation of the trial program.
- (iii) Implement the capacity improvement and training program.
- (iv) Conduct participatory monitoring of the training activities and follow up with trainees to assess trainees' improvements in performance, and to elicit (a) trainees' reflections on their enhanced abilities, and (b) trainees' suggestions for further learning or other initiatives that might contribute to improved performance.

5. Training will be for the designated regulatory agency, line agencies, provincial, district, and local staff undertaking resettlement planning and implementation, judiciary, the Land Management Department of the Royal University of Agriculture, and for the private sector, NGOs, and academic or research institutions that could undertake resettlement planning or monitoring, or be otherwise involved in resettlement activities.

D. Staffing Inputs

6. The TA will require about 18 person-months of consulting services, including about 10 person-months of international consultants and about 18 person-months of domestic consultants. The TA will be implemented over 24 months commencing in February 2005. The international consultants will have expertise in land-related legal issues in Cambodia, resettlement planning, implementation, and policy formation; indigenous peoples; and gender and development. The domestic consultants will have experience in land administration and land transfer matters; legal knowledge of compensation issues, including valuation issues and methodologies; social and gender assessments; involuntary resettlement on ADB- or World Bank-financed projects; knowledge of government organization and finance, including local government; development and delivery of training programs; and legal expertise and a good knowledge of the related legal framework.

E. Reporting Requirements

7. The consultants will prepare the following reports for the MEF, MLMUPC, and ADB, and will submit them in the following numbers: 5 each for MEF and MLMUPC; 3 for ADB. For ADB, and where appropriate to the nature of the report or document, the consultants may use electronic transmission, in which case the multiple copy requirements will not apply. All reports will be in English and translated into Khmer.

8. Quarterly progress reports will include details of stakeholder consultations. For phase 1, reports include an inception report within 1 month of inception; phase 1 national consultation workshop report; consultation draft of resettlement policy, subdecree, implementing regulations, and technical guidelines; and the draft final of the resettlement policy, subdecree, implementing regulations, and technical guidelines. For phase 2, reports include the final government-issued copies of resettlement policy, subdecree, implementing regulations, and technical guidelines; the training needs assessment report; draft capacity development and training program and training materials; and the plan and materials for broad dissemination of official policy, subdecree, implementing regulations, and technical guidelines to line agencies, provinces, judiciary, Land Management Department of the Royal University of Agriculture, and NGOs. For phase 3, reports include a report on dissemination of official policy, subdecree, implementing regulations, and technical guidelines; the trial training report and revised capacity development and training program and training materials; and the training program report, including participatory monitoring report on each training activity and follow-up.

平成 17 年 3 月 9 日 14:00 - 17:00 MPWT にて

インフラ関係ドナー会議

議題：カボ・ジア運輸部門において直面している社会的・住民移転問題

発表者：Ms Marla Huddleston, ADB 上級社会開発 / 住民移転専門家

発言の要旨：以下のとおり

法律、移転政策の詳細には触れず、ここではどういう問題が起きているか、およびその対策を述べる。

1. 一般的影響緩和策

影響	緩和策
土地の使用権	等価の土地あるいは現金補償
家屋	家、材料、労賃の支給
農地	作物への補償、代替地
生計補償	生計手段の回復
樹木	樹木への補償、代替樹木
店	収入補償、代替店
賃金	賃金補償

2. 不適切な強制住民移転の結果は以下のよう：

- ・ 影響住民の貧困、負債、病気および死亡
- ・ 金銭ロスの伴ったプロジェクト遅延
- ・ 住民反対運動の激化
- ・ 生産効率の悪化？

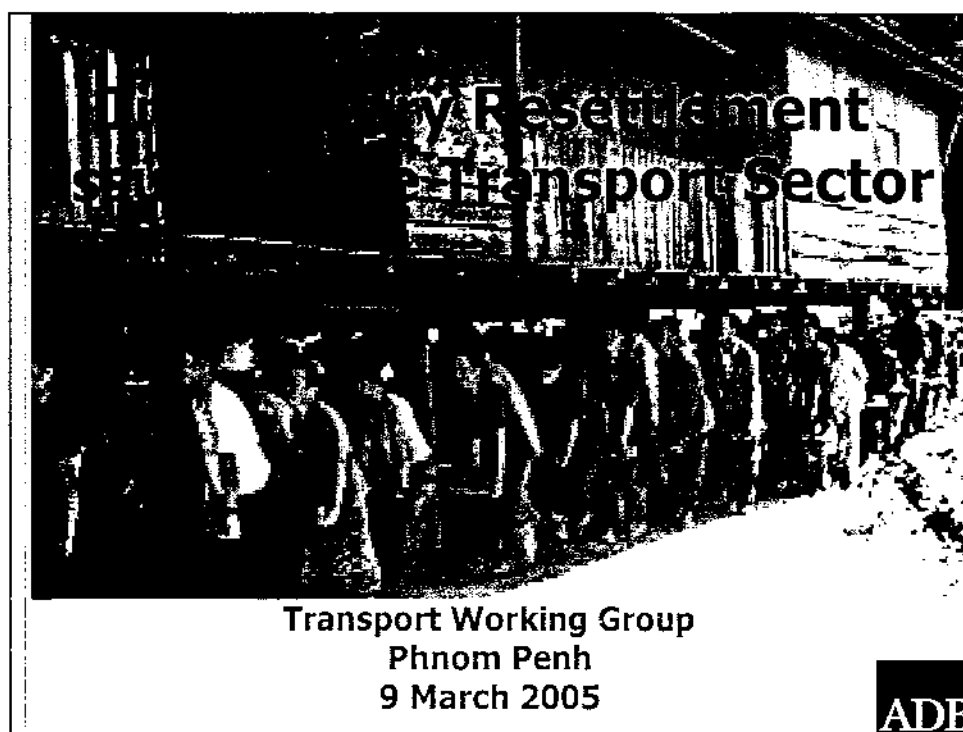
3. 基本的対策

- ・ 足切日以前は誰でも補償が受けれること（ROW 内住民の不適切な取り扱いはいくはない）
- ・ 補償認定のあり方として
 - プロジェクト実施前の社会・経済的状態の復元
 - 貧困・社会弱者へのプロジェクトによる恩恵
 - 少なくともプロジェクトによって悪化する人が出てはいけない
 - 土地なしに配慮
 - 家屋、収入、生活レベルが悪化しないこと

3. 過去の問題および対策

- ・ 3つの道路プロジェクトにてローン契約に遵守していなかった

- ・ ADB のセーフガード政策を遵守していなかった
- ・ 発展ではなく貧困化が起きている
- ・ 担当組織が機能していない
- ・ 別個の管理組織が必要
- ・ 別個の計画・実施組織が必要
- ・ タイムリーで適切な資金の提供が必要
- ・ 独立機関によるモニタリング
- ・ ドナーとの合意、信頼関係の確保
- ・ 透明性と公正性の確保



The Presentation

- **Losses & Mitigation Requirements**
- **The Consequences of Not Doing it Right**
- **The Issues**
- **The Solutions**

ADB

Losses	Mitigation Measures
Land use rights	Land or cash to buy replacement land
House	House or materials and labor or cash
Livelihood base	Restore income levels
•Agric. Land	Compensate for crops; replace land
•Trees	Compensate for trees; replace
•Fish pond	Compensate for fish; replace
•Shop	Compensate for income; replace
•Wages	Compensate for lost \$; alternate job

ADB

The Consequences of Not Doing IR Right ...

- **Impoverishment**
- **Debt**
- **Illness**
- **Death**

ADB

More Consequences of Not Doing IR Right



Courtesy of Urban Resource Centre Karachi
<http://www.irc.karachi.org/>

- Costly **delays** in civil works
- Growing **public opposition**
- Costs in **production foregone**
- Costly **reputational risks**

ADB

The Issues...

- **Eligibility** should be: everyone who is affected as of the cut-off date
- In practice: inconsistent treatment of APs in ROW

ADB

...The Issues

- Entitlements should be:
- restoration of pre-project social and economic conditions
- Improved conditions and project benefits for poor and vulnerable
- No one to be made worse off

ADB

...the Issues

- In practice, ROW APs are left:
- Landless
- Without replacement homes
- Without replacement livelihoods and income
- Worse off because of the project

ADB

...the Issues

- **Non-compliance with loan agreements on 3 road projects**
- **Non-compliance with ADB's safeguard policy**
- **Impoverishment, not development**

ADB

...the Issues

- **Organizational setup not working**
- **Need a separate regulatory body**
- **A separate planning and implementation function – where?**
- **Timely and adequate provision of funds upon request – the only financial issue**
- **Independent monitoring essential**

ADB

The Solutions...

- **Resolve outstanding issues**
- **Better up front planning**
- **Better implementation**
- **Honor agreements – trust**
- **Transparency + fairness**

ADB

The Next Steps

- TA to identify the risks and develop tools
- TA for legal instrument, regulatory, institutional framework
- Capacity development



ADB



カンボジア国国道 1 号線（プノンペン・ネアックルン区間）改修計画予備調査
 （第二次環境社会配慮支援調査）
 日本海外コンサルタント(株)

打合せメモ

議題： 住民移転政策

日時： 2005 年 3 月 10 日

場所： モナークホテル・レストラン

出席者： Ms. Marla Huddleston、Senior Social Development/Resettlement Specialist,
 Infrastructure Division, Mekong Department, 田中氏（ADB）、小野氏、玉懸氏、ナン氏
 （JICA）、小林、庄司（JOC）

打合せ内容

（Ms Marla）

- ・ プロジェクト承認の Safe Guard Policy Document として ADB は RAP の提出を求める。
 （ADB に雇われた）コンサルタントが政府と一緒に作成し ADB に提出する。
 RAP の中身は、
 - 影響資産リスト
 - 社会経済状況調査
 - 高めに計算した概略の住民移転・補償費総額
 - 補償基準
 - 苦情処理委員会等々
- ・ RAP はプロジェクトの準備段階で Draft として作成されるが、プロジェクトの進展と共に変わっていく。例えば影響住民数、補償総額・住民移転実施工程等である。これに対して変わってはいけないもの（低減・改悪されてはいけないもの）は補償ポリシーである。
- ・ カンボジア政府の ROW 内のセットバックを許すという方針は住民をいつでも切り捨てることのできる不安定なままの状態に置くことである。
- ・ ADB はこれまで DMS の管理がまったくできていなかった。理由は IRC が機能していなかったからである。Mr.Chou Vanny らが MEF の上部に十分情報を流していなかったからである。今回の MEF の会議では、Dy.Secretary General の Mr.Vogsey Vissuth が出席して初めてこの問題の重要性を理解してもらったと思っている。
- ・ （小林の質問；ADB がローンの一部で社会環境部 SEU を MRWT にスタートさせたが？）将来的には MEF は予算を付与し実施は MPWT にさせるべきと思っているが抵抗がある。
- ・ 日本国政府はカンボジア政府に適切な住民移転の実施についてどのような圧力をかけているのか。（小林が 3 つの住民合意条件を説明）
- ・ カンボジア政府は全国一律の補償単価を主張しているが、地方ごとにコンサルによる市場価格調査を実施して単価を決定欲しい。
- ・ 2000 年時のレートは忘れて今日の市場価格の調査からはじめたいと思っている。
- ・ C2 には土地無し世帯が 76 世帯あったが、彼らは今はどうなっているのだろうか。強い

カンボジア国国道 1 号線（プノンペン・ネアックルン区間）改修計画予備調査
（第二次環境社会配慮支援調査）
日本海外コンサルタント㈱

人・普通の人には粘れるが、貧乏人は（わずかの金欲しさの）移転によってますます状態が悪くなる。

- ・（小林が具体的に何にか報告書がするのかと質問）ある 5 人家族の一家で 4 人が病死したという情報があるが....。
- ・ ADB 支援（TA）による国家住民移転政策プロジェクトが 2 ヶ月後にスタートし、その 6 ヶ月後に Draft が提出される予定である。それに対して Workshop を実施して各機関の意見を聞き、1 年ぐらいしたら法令化する予定である。

なお、この実施担当部局は MEF である。

- ・ 同様プロジェクトがすでにスリランカで実施され、共通の RAP が使用されている。
- ・ 今後情報の共有、ワークショップの勉強会等を行いましょう。

**Confirmation Reconnaissance Survey on Brick-made structures built
along Phase II DMS Section (Sta0+300~Sta23+900)**

The reconnaissance survey was conducted on March 12, 2005 and the result was summarized and presented briefly as follows with drawings and photos attached.

1. Brick-made structures of more than two (2) stories

Almost all of existing structures have been built outside of ROW or PRW, except 2 cases only as follows;

Case 1: Sta.0+300. It looks built apparently illegally as other two neighboring structures with more than 2 stories are built setting back and outside PRW/ROW.

It is strongly recommended to confirm if the owner has the official permit basing on the Building Code or not. Refer to the photos attached.

Case2: Sta.23+540. Half of structures inside PRW. Refer to the photo attached. It seems that the concerned authorities are guiding the owners of multi-storied buildings properly in construction permit issuance following to the Building Code telling existing ROW. But in the present project, the PRW was taken wider at this section and, as a result, the building location becomes inside PRW.

2. One story brick-made structures

Almost all structures built inside PRW close to roadway are for shops, storages, and garages, relatively smaller in size and can be relocated easily as wooden structures.

Note: No real concreting building was observed and almost are made with brick-walls covered with plasters or cement with concrete beams and pillars.

*The Preparatory Study on the Confirmation of Environmental and Social Considerations
for Improvement of National Road No.1 (Phnom Penh – Neak Loeung Section)
Japan Overseas Consultants*



Photo 1.

At STA. 0+330 the foreground structure is located just outside PRW while the building behind is encroaching PRW by a few meters.



Photo 2.

View of the same building from opposite side.

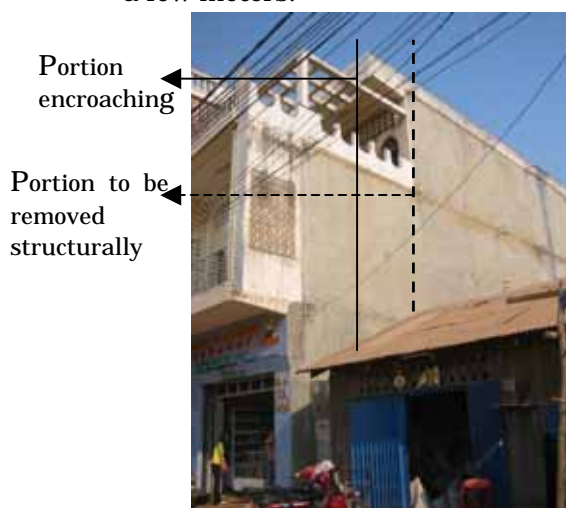


Photo 3.

Close view of the structure. Have to cut one span of 4m below the veranda.



Photo 4.

Nearby brick structure which is located outside PRW



Photo 5.

At STA.0+590 on the Mekon River side, the main 2 storied brick structures are located outside PRW while the temporary houses are located inside PRW.



Photo 6.

At STA.+635 on Mekon River side, the multistoried brick structure are located outside PRW while the gate is located inside PRW.

*The Preparatory Study on the Confirmation of Environmental and Social Considerations
for Improvement of National Road No.1 (Phnom Penh – Neak Loeung Section)
Japan Overseas Consultants*



Photo 7.

Main building is located outside PRW as well.



Photo 8.

Whole building is located much away from PRW.



Photo 9.

Only a car garage with a brick structure is located inside PRW



Photo 10.

At STA.0+960, all of three brick buildings are outside PRW, although the center building is located very close to PRW boundary.



Photo 11.

Another view of Photo 10 buildings.



Photo 12.

Located outside PRW as well.

*The Preparatory Study on the Confirmation of Environmental and Social Considerations
for Improvement of National Road No.1 (Phnom Penh – Neak Loeung Section)
Japan Overseas Consultants*



Photo 13.
Side view of the building as Photo 11.



Photo 14.
On the Colmatage Side a 2 storied building is located outside PRW while one storied structure attached to the building is located inside PRW.



Photo 15.
Only the storage of brick house is located inside PRW as well.



Photo 16.
Pagoda and fence are located just outside PRW.



Photo 17.
Located outside PRW.



Photo 18.
Main structure is located outside PRW.

*The Preparatory Study on the Confirmation of Environmental and Social Considerations
for Improvement of National Road No.1 (Phnom Penh – Neak Loeung Section)
Japan Overseas Consultants*



Photo 19.

One storied shops are located inside PRW while 2 storied buildings are located outside PRW.



Photo 20.

STA.1+650, A one storied brick house of dental clinic located inside PRW.



Photo 21.

At STA.1+870, a restaurant of brick house is located inside PRW.



Photo 22.

At STA.2+720, a photo shop of brick house is located inside PRW.



Photo 23.

At STA.2+230, front portion attached is made by timber, located inside PRW, and behind is a brick structure, located outside PRW. Note that backfill is already made for the front portion.



Photo 24.

At STA.3+400, a building, under construction, is located with much distance from PRW.

*The Preparatory Study on the Confirmation of Environmental and Social Considerations
for Improvement of National Road No.1 (Phnom Penh – Neak Loeung Section)
Japan Overseas Consultants*



Photo 25.

At STA.3+580, a brick house on Mekong River side, with 2 storied building is located outside PRW



Photo 26

At STA.3+600, a brick house on Colmatage side, is located outside PRW.



Photo 27.

At STA.3+970, a brick house on Colmatage side is located outside PRW. The splendid gate is affected.



Photo 28.

At STA.5+220, a brick house is on Colmatage side. Parking place in front of the building is inside PRW and partially backfilled



Photo 29.

At STA.13+340 just before Kokir Market, a corner of brick building of school is located a little inside PRW. Already backfilled by themselves, no further embankment is required.



Photo 30.

At STA.23+540, a building with its 2 storied brick structure portion is located inside PRW for several meters. This is the second building after Photo 1 building with their multi-storied brick structure portion is located inside PRW.

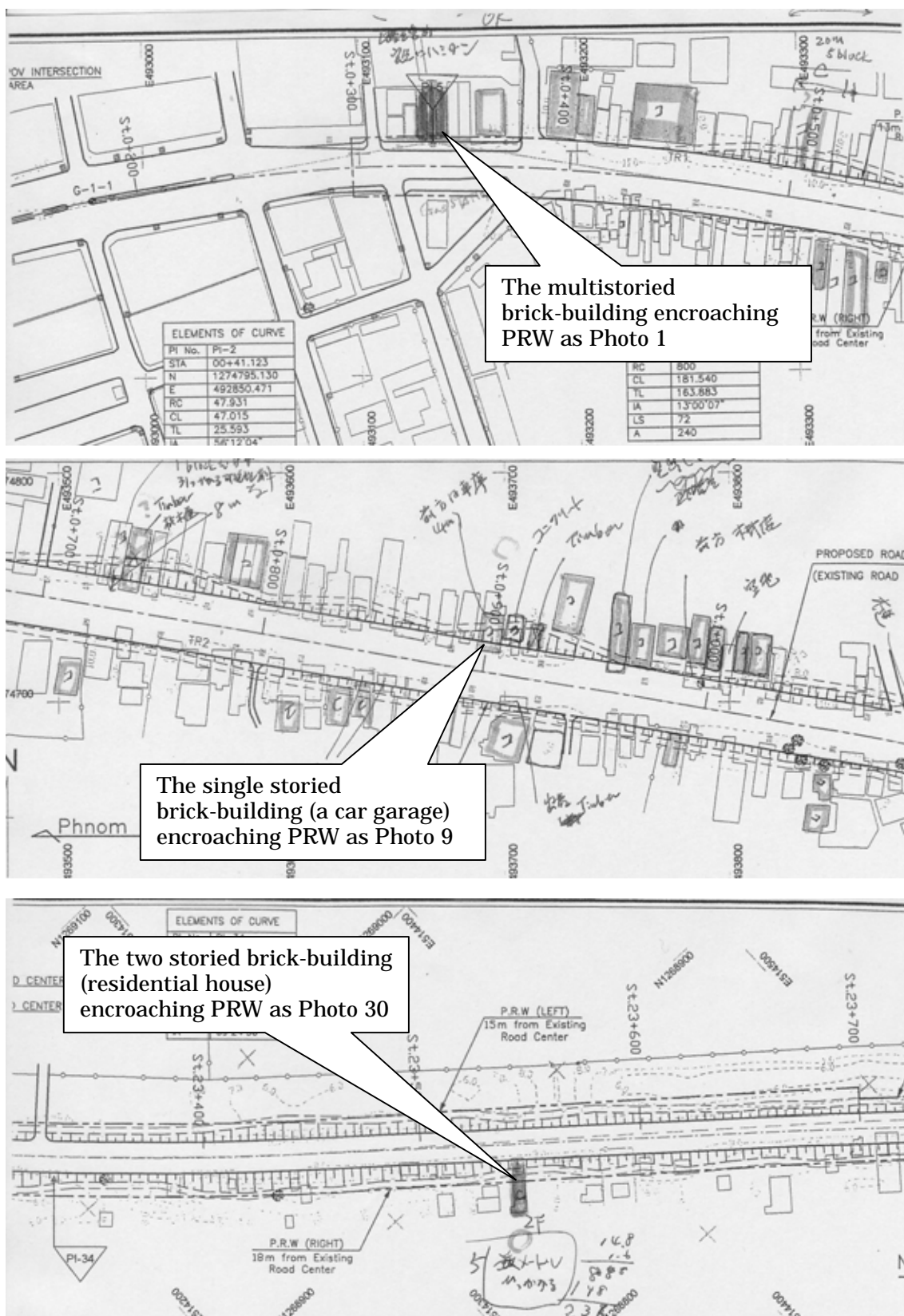


Figure Locations of some of brick buildings mentioned in the photos

**THE ROYAL GOVERNMENT OF CAMBODIA
MINISTRY OF PUBLIC WORKS AND TRANSPORT**

**IMPROVEMENT OF NATIONAL ROAD NO. 1
PHNOM PENH - NEAK LOEUNG SECTION**

RESETTLEMENT ACTION PLAN

DRAFT

**March 2004
(Before DMS Started)**

JAPAN INTERNATIONAL COOPERATION AGENCY

Abbreviation and acronyms

ADB	Asian Development Bank
APs	Affected Persons
ASEAN	Association of South-East Asian Nations
COI	Corridor of Impact
CRP	Community Resource Property
DMS	Detailed Measurement Survey
EA	Executing Agency
EMC	External Monitoring Consultant
EP	Entitled Person/Eligible Person
GC	Grievance Committee
GDPW	General Directorate of Public Works
GOC	Government of Cambodia
Govt.	Government
HH	Household
HQ	Headquarters
IEIA	Initial Environmental Impact Assessment
IRC	Inter-ministerial Resettlement Committee
ISIA	Initial Social Impact Assessment
JICA	Japan International Cooperation Agency
MEF	Ministry of Economy and Finance
MOE	Ministry of Environment
MPWT	Ministry of Public Works and Transport
NGO	Non-Government Organisation
NR	National Road
OD	Operational Directives
OP	Operational Policy
PAPs	Project Affected Persons (= Project Affected Households in this project)
PRW	Provisional Road Width
PMU	Project Management Unit
PWDT	Public Works Department and Transport
RAP	Resettlement Action Plan
ROW	Right of Way (60m)
RU	Resettlement Unit
SES	Socio-economic Survey
TROW	Tentative Right of Way (30m)
WB	World Bank

Phnom Penh – Neak Loeung Highway Improvement Project Draft Resettlement Action Plan Executive Summary

1.0 Background

The General Directorate of Public Works (GDPW) under the Ministry of Public Works and Transport (MPWT), the Royal Government of the Kingdom of Cambodia (GOC), has undertaken the improvement of 55 km stretch of the National Road No. 1 (NR-1) from Phnom Penh to Neak Loeung (the Project) with a Japanese grant. The Japan International Cooperation Agency (JICA) is providing technical assistance for materialization of the grant aid for the project.

The NR-1 linking the capital city Phnom Penh to its border territory to Vietnam at Bavet is a route designated as Asian Highway as well as ASEAN Highway and most of all road traffic between Phnom Penh and Ho Chi Minh (Vietnam). The NR-1 will stimulate the development potential within the impact area and generate high vehicle traffic.

The NR-1 is divided into (i) C-1 from Phnom Penh to Neak Loeung (55 km) and (ii) C-2 from Neak Loueng to Bavet (105 km). The C-2 section was improved with ADB assistance.

The Improvement Project will have positive impacts on both national and international road network improvement and road safety. There are settlements within the Right of Way (ROW) of 60 meter. The improvement associates some negative impacts on the people living along the alignment and settlement within the 30 meter Tentative Right of Way (TROW), Corridor Of Impact (COI) or Provisional Road Width (PRW) may need to be relocated. The adverse impact will be mitigated through implementation of a well-designed Resettlement Action Plan (RAP).

2.0 The Project Impact

The NR-1 has a 60-meter right of way (ROW). The proposed road improvement project is an existing road and due to encroachment throughout the recent years, the ROW land has partially turned into residential and commercial area.

The initial environmental impact assessment (IEIA) as per GOC and Japan International Cooperation Agency Guidelines for Environmental and Social Considerations (JICA's guideline) has primarily identified some adverse impacts of the project. Those will draw attention for mitigation by the proponent for social and natural environmental considerations. The MPWT as the Executing Agency has already obtained approval of the final report of IEIA from the Ministry of Environment (MOE).

The project road crosses one Municipality and two Districts. There are only 3 distinct townships along the road. The road is subject to heavy commercial development from Monivong bridge to 2 km, the Chbar Ampove market, located by the bridge is a major transshipment point of goods coming from south-east Cambodia and Vietnam.

Table 2.1: Number and affected type of houses

Type of House	Number of houses	Equivalent floor area (Sq.m)
I. Leaf roof	116	1,910.20
II. Zinc roof	1,469	35,819.20
III. Wooden house	149	3,746.20
IV. Concrete house	76	3,267.10
Total	1,810	44,742.70

Source – ISIA Report – October 2002.

The TROW will require to relocate 1810 houses (Table 2.1) and about 2000 households (Table 2.2) will be affected by the project who reside within the TROW and they should move outside. Since the ROW is designated as 60 meters, it is socially feasible to relocate these people from the TROW to the remaining part of the ROW.

Table 2.2 : Number of Affected Households (house and fence)

Chainage (km)	Tentative Right of way, m	Numbers of HH
0-15	15	858
15-30	15	519
30-45	15	388
45-54.8	15	236
Total		2,001

Source – ISIA Report – October 2002.

A full census will be required to be conducted for quantification of losses and their dimensions and eventually prepare a practical land acquisition and resettlement budget.

3.0 Objectives of Resettlement Action Plan

The primary objectives of the RAP are to provide guidelines for compensation payments for lost assets and resettlement of the affected persons for restoring, if not improving upon, their former living standards, income earning capacity and production levels.

Land acquisition and resettlement of the PAPs in this Project will be carried out as per the resettlement practices of the GOC and in accordance with JICA's guideline. This RAP will be revised upon receipt of results from the Detailed Measurement Survey (DMS), Detailed Design, implementation stage and final stage after completion.

4.0 Socio-economic Profile of Affected Persons

The project is estimated to affect about 4,333 people. Thirty (30) percent of the population are in the age group up to 14 years. The able population between 15 to 64 years of age constitute 66 percent while only 3 percent are beyond the able age. The male female ratio is 100:105 among the affected population (Table 4.1).

Table 4.1 : Affected population by age and sex

Age bracket	Male	Female	Total	Percentage (%)
0-14	700	625	1,325	30.58
15-64	1,359	1,510	2,869	66.21
65 +	56	83	139	3.21
Total	2,115	2,218	4,333	100
Percentage (%)	48.80	51.20	100	

Source – ISIA Report – October 2002.

Forty nine (49) per cent of the population are male. Total number of households was estimated to be 1810 while number of households shown 2,001.

Farming and home keeping are prominent occupation (33%) while earning through small farming was found to be 19% of the population. Servicemen constitute 11 percent of the respondents. There are labourers, drivers, fishermen and repair workers in the respondent list.

5.0 Land Legislation in Cambodia

Cambodia had experienced severe social, economic and political disruption during the past 20 years. In 1975 all private property was abolished and all records were destroyed. After 1979, when people began to return to the urban areas and due to the lack of defined property right, began occupying vacant land and structures, a system of usufruct was established.

The current land legislation in Cambodia is based on the new Land Law of August 2001 promulgated by the Ministry of Land Management, Urban Planning and Construction. This law enables that no formal written paper is required for land ownership and the fact of occupying the land continuously equal or more than 5 years is enough for formal land ownership. In the old land law as of 1992, this point was not clearly mentioned. Following orders are also to be noted in relation to the backbone of compensation policy in Cambodia.

- Praka No.6 (September 1999): An order issued by Prime Minister entitled "Measures to Crack Down on Anarchic Land Grabbing and Encroachment" in which a cessation to encroachment if public and private properties as well as state lands including public garden, reserved land for roads and railway.
- Decree No.961 (April 2000) : An Order issued by MEF declaring that, to reinforce Praka No.6, RGC will not spend the national budget to make payments for structures or other assets located in ROW.

6.0 The Entitlement Policy

The entitlement policy consists of a set of guidelines and criteria that specify the compensation/mitigation measures each of PAPs is eligible to receive. It also enables the IRC to classify all identified PAPs and to allocate the appropriate compensation/mitigation package for them.

6.1 Types of Recognized Losses

Based on the fact that the land within the ROW is thought to be the government land, occupied by present residents, compensation/mitigation measures are (i) loss of lands (ii) loss of structures, (iii) loss of productive trees and (iv) loss of commune/public assets.

6.2 Compensation Measures

Since there is least land acquisition for the project except relocation site(s), the compensation measures concentrate for loss of structure and other assets including productive trees. IRC will determine replacement market price of property on the TROW(or PRW). The salvaged materials of the structures and trees will be allowed to take away by the PAPs free of cost. Table 6.2 provides the compensation policy of the RAP.

Table 6.2 Compensation Policy for Assets inside ROW*

Type of Loss		Entitlement
General Notes		✓ Compensation is made one time only. PAPs, who were allowed to remain within the ROW for this project, will not get compensation again when they have to move outside ROW for the future project.
Loss of Land	Residential land/commercial land	<p>✓ In principle, no cash compensation is made for land, although it is allowed to remain within ROW, by setting back outside PRW.</p> <p>✓ In addition, following is entitled to landless PAP depending on remaining land area he/she occupies outside PRW as:</p> <ul style="list-style-type: none"> (1) less than 30 m², alternative land in the relocation site is provided if he/she requests to move there (2) equal or more than 30 m² but less than 60 m² and this remaining area seems to be not enough to afford whole of his/her family, provision of alternative land in the relocation site may be considered if he/she requests. (3) equal or more than 60 m², no alternative land is provided. <p>✓ It is noted that if the landless PAPs, after provision of alternative land, is found to have been not really landless, i.e., having alternative land and/or enough money to purchase the land, his/her land will be retrieved and punished.</p>
	Agricultural land	✓ Standing crops is allowed to harvest only

Type of Loss		Entitlement
Loss of Structure	Thatch/ timber/ brick houses, concrete/ timber fences, concrete/ timber bridges, water tank and well	<p>✓ In principle, compensation for structures is made in accordance with government price based on categories for the portion within PRW only.</p> <p>✓ Note that no compensation is provided for movable stalls and stands.</p> <p>✓ Exceptional compensation is granted for the portion of structure located outside PRW, only when remaining area outside PRW is less than 30 m², or sometimes less than 60 m² with which area it seems to be not enough to afford whole of his/her family, and due to that reason all the structure is demolished and he/she has to move to the relocation site or other places than inside ROW.</p>
Loss of Productive Trees	Fruit Trees, bamboo, rubber tree and so on	✓ Cash compensation based on the investment and productivity of the tree.
Loss of Commune Public/Assets	Meeting halls, market	✓ Cash compensation with government price or preparation of equivalent assets lost by the project
Allowances for residential houses affected	Those whose houses are affected (partially or totally demolished), by which their lives are disrupted	<p>✓ Disruption allowance 40\$/household is provided as support for meal and/or income loss while reconstruction/repair of their residential houses.</p> <p>✓ No disruption allowance is made for the reconstruction of buildings other than of residential purpose.</p>
	Those whose houses are affected so that they have to moved to relocation site or other places outside ROW	✓ Resettlement allowance 40\$/household is also provided in addition to disruption allowance above.
Special Allowance to Vulnerable Households	Households headed by widow /aged /handicapped /poor householders, whose incomes are primary sources for the whole household members.	✓ Cash allowance 20 \$/household to each household applicable is provided.

*Assets outside ROW is negotiated, not necessarily restricted to these policy

6.3 Taxes and Government Fees

The government will be responsible for all fees and taxes PAPs must pay as a result of any transaction associated with their relocation or compensation/assistance.

7.0 Project Implementation Organisation

The Ministry of Public Works and Transport (MPWT) is responsible for execution of the resettlement component of the Phnom Penh – Neak Loeung Highway Improvement Project. The MPWT will establish a Project Management Unit (PMU) within it to implement the Project. The Royal Government of Cambodia has established an Inter-ministerial Resettlement Committee (IRC) with representatives from concerned ministries. Resettlement Units (RU) at various level will be set up under the IRC, which will work in cooperation with the PMU to ensure the effective implementation of the project.

The RU will be working in close coordination with the PMU under the IRC and manage the activities through the municipality, provincial and district level resettlement units. The smallest unit of the IRC will be the commune level resettlement unit.

An external monitoring consultant (EMC) will be assisting the IRC as well as monitoring and supervising their activities. The EMC will ensure highest degree of transparency at all levels and examine that appropriate methods are followed and appropriate compensations are awarded for proper resettlement of the PAPs as per objectives of the RAP.

8.0 Schedule of the RAP

The implementation of the project will consist of four major stages in conformity with the construction timetable. The implementation of cut-off date, public information meeting and stakeholder meeting, DMS and grievance process, relocation and resettlement of PAPs should be phased in harmony with the civil construction needs. Environmental and social considerations for this project will be conducted and shown in Figure S-1. Details of the planning and implementation time schedule is shown in Table S-1.

9.0 Public Information Meeting and Stakeholder Meeting

Public information meeting is carried out among PAPs in the related communes about the objectives for resettlement. People have been consulted and found agreeable to the project in the simple survey conducted from 16 October 2003 to 11 January 2004. If relocation is required from land to which houses are relocated is secured, basic agreement from host community/landowner which receive the relocated houses, shall also be obtained.

In order to meet the requirement for community participation and consultation the PMU will prepare and issue an information booklet to all PAPs. The information dissemination will be followed by strategic approach for collection of data and opinions from the PAPs in the form of feedback.

10.0 Grievance Process

The main objective of the grievance procedure is to provide a mechanism to mediate conflict and reduce lengthy litigation that can delay infrastructure projects. It also provides people who have objections about their assistance with a recognisable procedure through which to raise their objections and have them resolved, as shown in Figure S-2.

Phnom Penh Municipality and Kandal Province will have a Grievance Committee (GC) comprising of the provincial governor, commune head in relevant, village elder(s) of commune(s) in relevant, a staff of MEF, and representative of EMC and staff from provincial PWT as a technical advisor/observer , and also a secretary from governor's office.

12.0 Gender and Vulnerability Planning in Resettlement

Vulnerable groups like those will experience a greater degree of disruption socially or economically than the general population, female headed households, disabled head of households, households below the Cambodian poverty line and members from ethnic minority groups will be provided with special assistance.

13.0 Relocation of Community Resources

Community resources on the tentative right of way affected by the Project will be rebuilt by the Project in consultation with the local people and the community. Construction of the community facilities will be completed prior to commencement of work on the right of way.

14.0 Resettlement Budget

The Resettlement Budget will be prepared on quantities obtained from the DMS and the rates determined as per compensation policy of the RAP. Tentative budget for resettlement and implementation of the RAP is estimated in ISIA Report to US\$ 1,505,322.50 subject to updating after the DMS.

15.0 Monitoring and Evaluation

Both internal and external monitoring will be resorted to for perfect implementation of the RAP. An EMC will be employed by the JICA for external monitoring and evaluation.

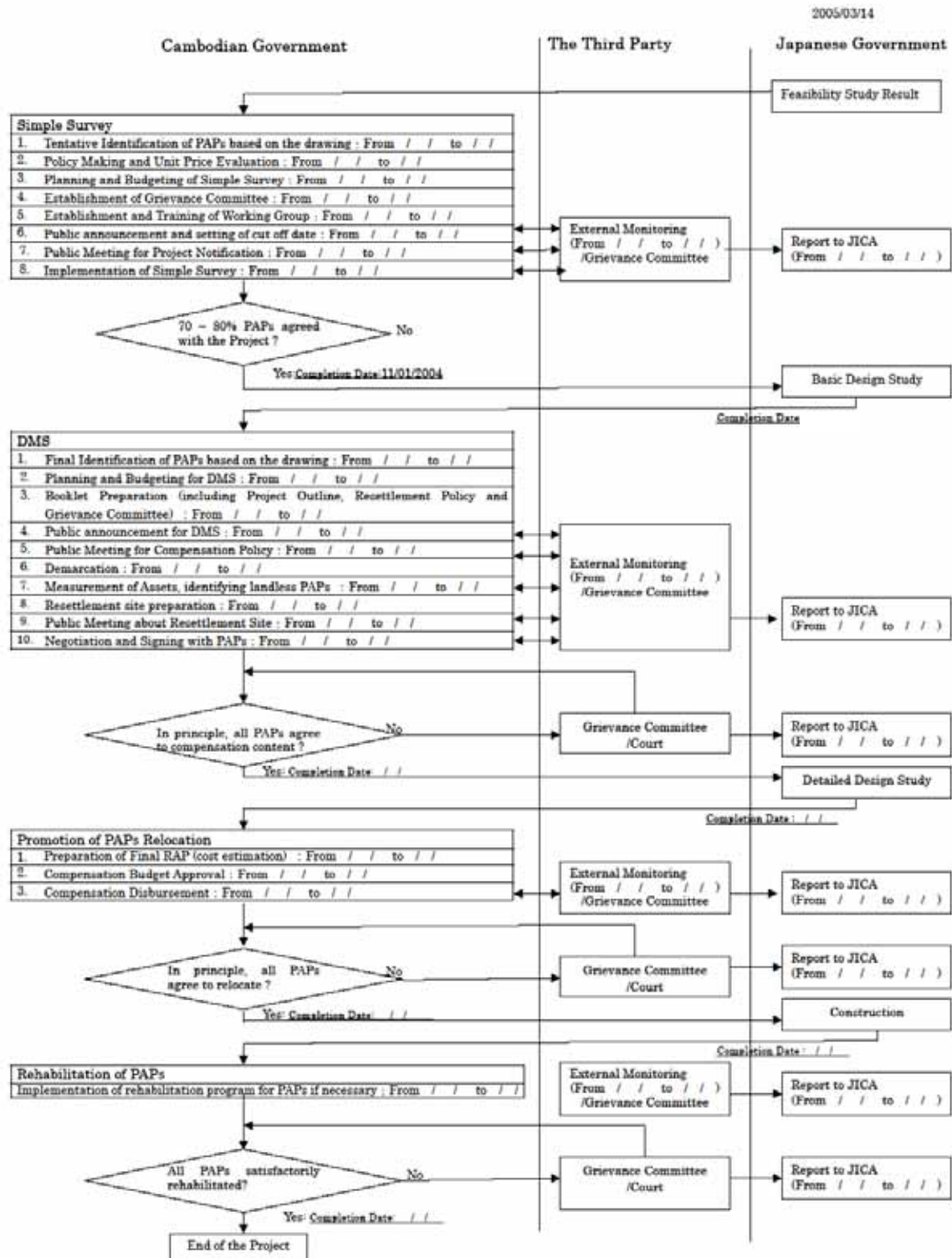


Figure S-1 Flow of Environmental and Social Considerations
National Road No.1 (Phnom Penh-Neak Loeung Section) Improvement Project

Table S-1 Planning and Implementation Schedule (Tentative)

	Month	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
A	Preparatory Stage																														
	1. Simple Survey																														
	2. Cut-off-date																														
	3. Draft RAP																														
	4. Basic Design Study																														
	5. Detailed Measurement Survey																														
	6. Public Information Meetings																														
	7. External Monitoring																														
	8. Stakeholder Meetings																														
	9. Formulation of Grievance Committee																														
	10. Detailed Design Study																														
B	Implementing Stage																														
	11. Development of Relocation Sites																														
	12. Cash Disbursement to PAPs																														
	13. Relocation of Self-relocated Households																														
C	Supervision and Monitoring																														
	14. Submission of External Monitoring Report																														

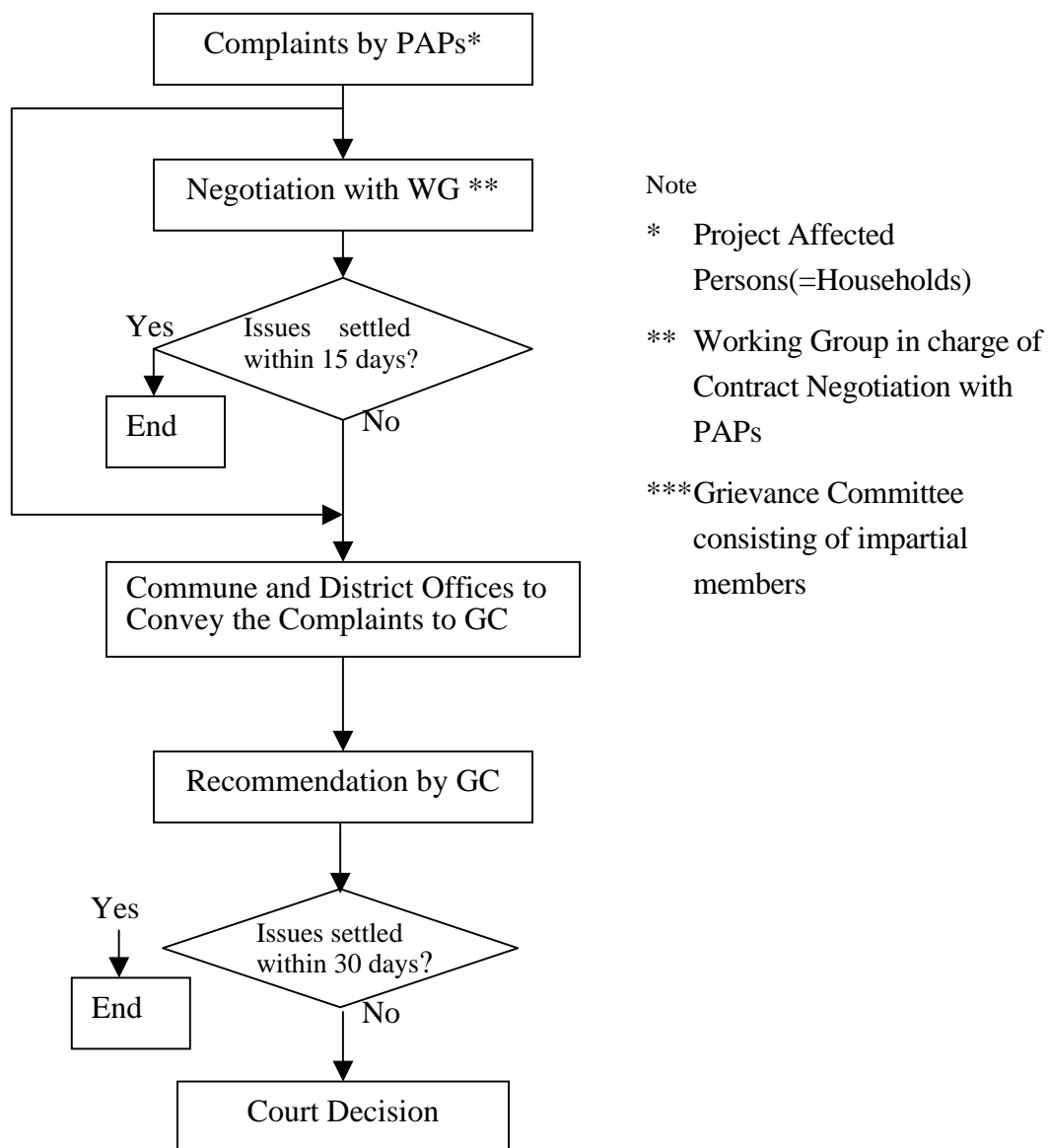


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Kingdom of Cambodia
Phnom Penh -Neak Loeung Highway Improvement Project
National Road No. 1
Draft Resettlement Action Plan

CHAPTER 1 THE PROJECT

1.1 Background

The General Directorate of Public Works (GDPW) under the Ministry of Public Works and Transport (MPWT), the Royal Government of the Kingdom of Cambodia (GOC), has undertaken the improvement of 55 km stretch of the National Road No. 1 (NR-1) from Phnom Penh to Neak Loeung (hereinafter called “the Project”) with a Japanese grant. The Japan International Cooperation Agency (JICA), the official agency responsible for the implementation of the technical cooperation programs of the Japanese government, conducted the feasibility study on the project during April 2002 and in March 2003. A JICA team of consultants paid a mission to the project site and is in a position to formulate the project design and a comprehensive resettlement plan for the project affected people.

After decades of conflict and economic isolation, Cambodia’s road infrastructure is in an extremely poor state and in some areas not usable. The state of the road network acts as the primary constraint to general economic recovery and further growth in agricultural production and investment from the emerging private sector in areas such as plantation agriculture. The government of the Kingdom of Cambodia is trying to attract international assistance towards its road network development. The National Road No. 1, linking the capital city Phnom Penh to its border territory at Bavet, is a route designated as Asian Highway No. A-1 as well as ASEAN Highway No. 1, and most of all road traffic between Phnom Penh and Ho Chi Minh passes on this route. The 160 km long NR-1 will also link the capital to its vast flood plain yielding rich agricultural products.

The expected road improvement and functions of NR-1 are as follows:

- To ensure road transport throughout the year by upgrading to a flood-free road to an all-weather standard.
- To secure traffic safety by providing separate lane for slow-moving vehicles such as motorcycles, and motorcycle trailer (moto-remorque)
- To stimulate economic and social development by connecting the major productive centres with urban centres to provide better market accessibility, allow more competition and stabilise the process as well as to increase job opportunities for the poor.

-To strengthen linkages between production and consumption centres and between exploited resources and trading gateways by the improvement of the arterial road to an international standard. This will encourage the ongoing transition to market economy that has opportunities for reducing poverty.

The area of impact has high development potential in terms of domestic production/consumption as well as international / regional trade and investment. This area produces crops such as paddy, maize and vegetables as well as fisheries, livestock and poultry products that are mainly transported to Phnom Penh, the biggest consumption centre. Once NR-1 is improved, it will stimulate the development potential within the impact area, and high vehicle traffic generation is anticipated.

The NR-1 is divided into two sections: (i) Section C-1 from Phnom Penh to Neak Loueng (55 km) and (ii) Section C-2 from Neak Loeung to Bavet (105 km). The C-2 section was improved with ADB assistance and financing by the year 2003.

The improvement associates some negative impacts as well on the people living along the alignment and settlement within the Right of Way (ROW) who may need to be relocated.

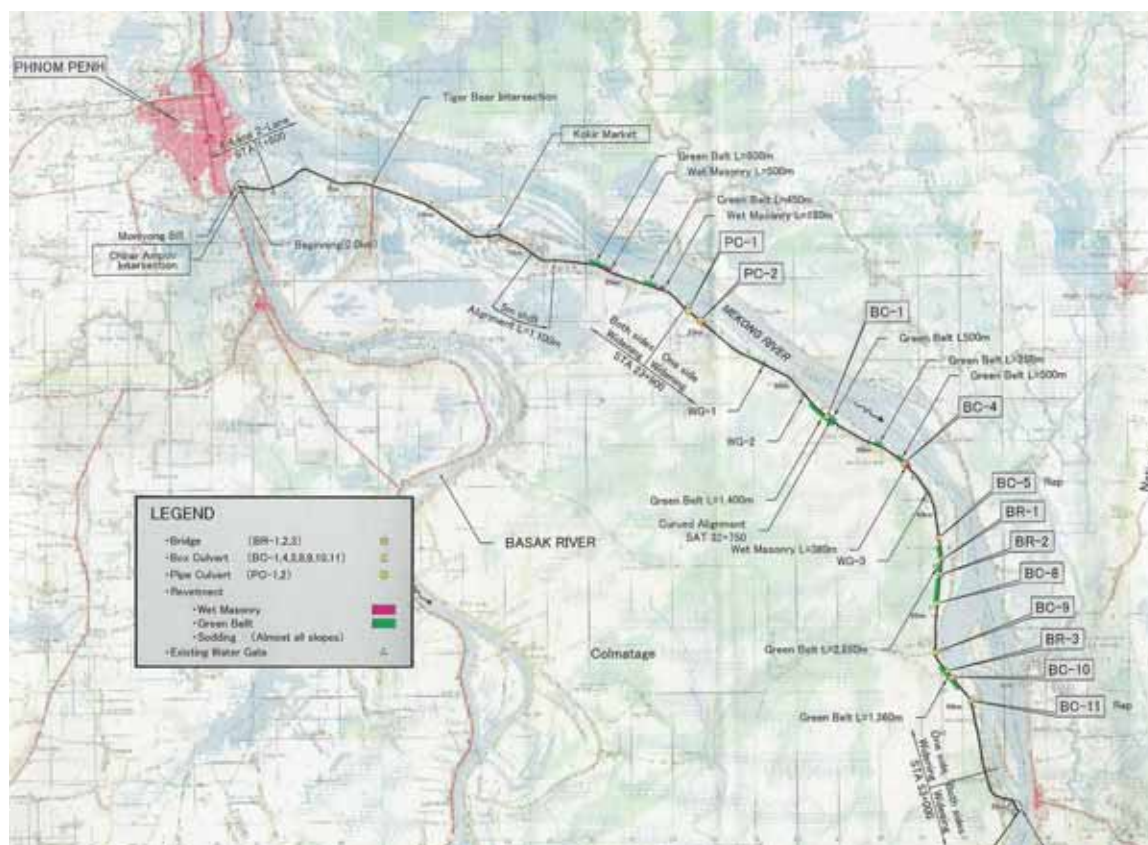


Figure 1 Location of the National Route 1

1.2 Project Data and Adverse Impact

The Project road runs parallel to the river Mekong. It crosses the Kandal province passing by two Districts; Kien Svay and Loeuk Dek, and one Municipalities; Phnom Penh (Mean Chey). The road, in the Phnom Penh municipality, is subject to heavy commercial development from the Monivong Bridge to STA.3+330. The Chbar Ampov Market is located by the Monivong bridge and is a major transshipment point for goods coming from south-east Cambodia and Vietnam. Buildings adjacent to the road have almost all been built on cement pillars. These serve both as shop and residence. The rest of the road, i.e. from STA3+330 to the ferry crossing at Neak Loueng, is considered as in the rural area. It is noted that, the Kokir Market at STA 13.7 km is the rural town. In fact, the right of way in this location is less than 30m from the centre of the road.

There are houses, shops and some small industries along the road. Besides, some areas in the river-side of the road are earmarked with fences to establish industries in the future.

Development along the existing road is essentially rural, with agricultural land being interspersed with roadside villages and towns. Only 3 distinct townships along the road are (i) the first 3 km after Monivong bridge, (ii) Kokir Market and (iii) ferry crossing at Neak Loeung.

An initial environmental impact assessment was conducted in accordance with the environmental rules and regulations of Cambodia as well as environmental guidelines of JICA, and it was concluded that the project has negative impact unless proper measures by the proponent for social and natural environmental considerations are fully taken into account.

The MPWT as the Executing Agency for the Project has submitted the final report of IEIA to MOE and due procedure was carried out in November 2002. MOE has issued an approval letter to the Project.

Table 1.1 Number and Types of Affected Households

Type of House	Number of houses	Equivalent floor area (Sq.m)
I. Leaf roof	116	1,910.20
II. Zinc roof	1,469	35,819.20
III. Wooden house	149	3,746.20
IV. Concrete house	76	3,267.10
Total	1,810	44,742.70

Source – ISIA Report – October 2002 (to replace for DMS).

The JICA has conducted Feasibility Study for the Project and submitted the final report to the Government of Kingdom of Cambodia in March 2003. It considered that for the moment 30 m width in general is sufficient enough for the road section under the improvement. The land level along the road up to the Mekong is low compared to the C-2

section. The height of the road embankment will therefore be higher in this section compared to C-2 section and will ask for wider COI. According to the initial social impact assessment (ISIA) about 1810 houses fall within the Tentative Right Of Way (TROW of 30m) fully or partially.

1810 houses are counted (Table 1.2) within the TROW of 30 meters. According to the ISIA, about 2000 households will be affected by the project. They reside within ROW and they are requested to move outside the TROW. Since the ROW is designated as 60 meters, it is socially feasible to vacate the land by a due procedure taken as the fair and just compensation to make the Project Affected Persons (PAPs) resettled involuntarily outside the TROW.

Table 1.2 Affected Fence by Category

Type of House	Number of HH	Length (m)
Concrete	138	4,787
Wooden	12	314
Barbed Wire	41	1,750
Total	191	6,8510

Source – ISIA Report – October 2002.

The ISIA counted 9,078 trees along the alignment of the project (Table 1.3). The occupants within ROW are enjoying those trees for more than 5 years knowing or without knowing that the land was acquired before 1975 and their customary right will not be recognised.

Table 1.3 Number of Affected Fruit Tree

Fruit tree	Number of trees
Mango	1,263
Coconut	2,753
Jack fruit	1,939
Guava	772
Kaminreach	577
Lemon	54
Pulasan	403
Payaya	1,317
Total	9,078

Source – ISIA Report – October 2002.

The Right of Way (ROW) of NR-1, as per the Prime Minister's declaration in 1999, is 60 meter and not specified in the populous areas. The route option between Phnom Penh to Neak Loeung involves least new land acquisition, except relocation site(s) and, by setting back inside ROW, will displace people to the minimum extent.

1.3 Objectives of Resettlement Action Plan

This draft Resettlement Action Plan (RAP) considers that the land for the Project belongs to GOC and ROW is 60m as per the declaration of the Prime Minister of the Royal Government of Cambodia (GOC). However, the draft RAP has been prepared based on current GOC legislation on land ownership and acquisition and Japan International Cooperation Agency Guidelines for Environmental and Social Considerations (JICA's guideline) and in light of the policy on involuntary resettlement adopted and followed by other international financing agencies in the region. It is primarily based on the findings of the ISIA conducted in early 2002. The bases this RAP are supplemented with field visits, various meetings with officials and stakeholders in the project area as well as from the executing agency of the project.

The primary purpose of this RAP is to describe (1) outline of project, (2) compensation policy to PAPs, (3) schedules for project and resettlement activities and (4) with a total budget for compensation. The objectives of RAP is to ensure the losses of APs incurred are redressed so that APs can share the project benefits and can be assisted to develop their social and economic potential. The RAP will need to be revised after DMS and also during the Design and Implementation, and Rehabilitation stages

1.4 Guidelines on Land Acquisition and Resettlement

Resettlement of the affected persons and commercial/business enterprises will be done in accordance with the JICA' guidelines. The usual policy on involuntary resettlement requires that (a) project planning and implementation carefully considers alternative options to minimize resettlement; (b) prepare resettlement plan beforehand to mitigate any negative impact.

Land acquisition and resettlement of the PAPs in this Project will be carried out in accordance with the following guidelines in a manner satisfactory to the JICA.

Resettlement will be carried out in a way to minimize the adverse impacts on the PAPs. This will be done in consultation with the people to be affected.

The people whose place of residence, business and farming is affected will, to the extent possible, receive alternative sites for living, trading, farming and livelihoods. Likewise, loss of standing crops and productive trees will be compensated.

Owners of residential/commercial units will be compensated at replacement costs.

If community structures or common property resources are affected, they will be re-built or replaced at market price under project financing.

The needs of women and other vulnerable groups will be identified and provisions made for grant.

IRC/EMC will assist PAPs in all aspects regarding relocation and resettlement. The executing agency (EA) will involve all stakeholders in the decision-making process concerning relocation and resettlement.

EMC will monitor the land acquisition, compensation payments, and resettlement of the PAPs including grievances redress and resolution of disputed claims for compensation.

1.5 Preparation of Resettlement Action Plan

On the backdrop that the Government of Cambodia will not recognise ownership of land of the occupants living in ROW for more than 5 years but compensate them in other ways, the JICA places importance on preparation of a well-designed Resettlement Action Plan(RAP). The GOC prepares the RAP through the IRC with technical assistance from the JICA consultants.

Meanwhile, the JICA consultants carried out preliminary assessment on resettlement impacts through the Feasibility Study and submitted the final report to the Government of Cambodia. About 1810 houses of occupants in the TROW according to ISIA should be relocated and resettled.

The JICA consultants were fielded in June 2003 to assess the resettlement needs and review the merits of the existing resettlement policy and practices in the country. An indicative outline of the Resettlement Action Plan has been discussed in this preparatory report. As most of them cannot read, group discussion and personal level contacts will be more acceptable to the PAPs.

The draft RAP prepared and submitted to the GOC as well as to the JICA by the Consultant. The IRC will conduct a Detailed Measurement Survey for collecting quantitative and socio-economic data on project affected households.

CHAPTER 2 PROJECT AFFECTED PERSONS AND IMPACT CATEGORY

2.1 The Project Area

The project alignment from Phnom Penh to Neak Loeung, crosses one municipality; Phnom Penh (Mean Chey) and two districts Kien Svay and Leuk Daek. Three communes in the Mean Chey municipality include 7 affected villages. Nine communes are affected under Kien Svay district in 28 villages. However, in Leuk Daek district 5 villages are affected in two communes (Table 2.1).

Table 2.1 Project TROW Impact Areas

Districts	Commune	Number of Villages
Phnom Phen (Mean Chey)	Chbar Ampov I	2
	Chbar Ampov II	2
	Nirorh	3
	District total	7
Kien Svay	Veal sbov	4
	Prek Ang	4
	Kbal Koah	3
	Phum Thum	1
	Kokir	2
	Dei Edth	3
	Banteay Daek	3
	Samrong Thum	5
	Kokir Thum	3
	District total	28
Leuk Daek	Kompong Phnum	3
	Prek Tonloab	2
	District total	5
Grand Total	14	40

2.2 Land-use and Settlement Pattern

The proposed project is improvement of an existing road with a right of way of 60 meter. Due to occupation for years, the right of way land has turned into residential land (68%). The occupants have access to large number of trees on the land and the ISIA found more than 50% of the occupants to use the associated land for fruit trees. There are vegetable

gardens, bus stations, storage, small shops, ponds, wells, boundary fences, etc. (Table 2.2).

Table 2.2 Land Use in the Project ROW Area

Pattern of land use	Number of Responses	% of 891 respondents
Rice	2	0.22
Family vegetable plant	15	1.68
Vegetable plant for sells	4	0.45
Fruit tree	465	52.19
Fishery/Lotus plant	0	-
Bus station / storage	6	0.67
Residence	607	68.13
Small Store	78	8.75
Use of others		
Fence	90	10.10
House	10	1.12
Well	2	0.22
Shop	15	1.68
Garden	2	0.22
No information	772	86.64

Source – ISIA Report – October 2002.

There are 3 densely populated areas along the road from Monivong Bridge to Neak Loeung. First is the Chbar Ampov market adjacent to Monivong Bridge. This market is used for vegetable retailing and whole-selling, as well as for distribution of imported food. The second is Kien Svay district town. This town has a local market called Koki, where villagers sell their products, especially fruits and food. The 3rd is the ferry crossing at Neuk Leung. In addition, there are three urban areas; namely Kandal Leu, Kandal Kraom and Prek Ta Keav.

2.3 The Study Process

The ISIA coverage was predetermined to be a right of way of 60 meter along the section C-1 of the NR-1. Initially, the survey teams surveyed all households within the predetermined ROW. Over time this strategy proved to be very time consuming and consequently inefficient. To accelerate the process, the teams proceeded to survey one household in every 100m stretch of the road. Within this 100m stretch, surveyors determined the number of households and estimated the cost of everything that could be compensated. Unfortunately, the distance covered in one day remained insufficient. Thus,

the teams pursued their sampling efforts at every 100m but only the total of potentially affected households were precisely determined. This sampling strategy was used in rural areas. In urban areas, households were surveyed at 50 meter using the same method.

An initial social impact assessment (ISIA) was carried out during early 2002 and the report was produced in October 2002. Some of the key findings of the ISIA are presented under section 2.5 while the detailed findings are available in the “Initial Social Assessment (ISIA) Report- October 2002”.

A Detailed Measurement Survey covering 100% of the affected households and establishments will be conducted for finalization of a full-fledged Resettlement Action Plan.

2.4 Database for Resettlement Management

A Detailed Measurement Survey (DMS) will be conducted to generate inventory of households and assets in TROW land including business and community resources. The database will provide a detailed picture of the social and economic impacts and will be used for resettlement management and implementation in this project.

The DMS data will form bases for implementation of the RAP and monitoring of the same by the Inter-ministerial Resettlement Committee (IRC), External Monitoring Consultant (EMC) and the JICA.

2.5 Socio-economic Profile of Affected Persons

The ISIA interviewed only 891 households along the 55 km long stretch of the Phnom Penh – Neak Loeung section of the National Road –1. However, the survey estimated about 4,333 people in 1287 families. Gender distribution of the affected population is not known but that of respondents found to be 40 percent male 42 percent female and 17 percent was not known either. Total number of houses was estimated to be 1810 while number of household shown 2,001.

Table 2.3 Number of Affected Households (house and fence)

STA. Section (km)	Right of way	Number of HH
0-15	15	858
15-30	15	519
30-45	15	388
45-54.8	15	236
Total		2,001

Source – ISIA Report – October 2002.

Farming and house keeping are prominent (33%) while earning through small farming was found to be 19% of the population. Twenty one (21) percent of the households interviewed could not provide any data on their profession (Table 2.4). Servicemen constitute 11 percent of the respondents. There are labourers, drivers, fishermen and repair workers in the respondents list.

Table 2.4 Occupation of the Respondent

Occupation	Frequency	Percent (%)
Farmer	195	21.89
Police	32	3.59
Small Business	172	19.30
Govt Staff	65	7.30
Student	28	3.14
Repair worker	20	2.24
Home Keeper	98	11.00
Enterprise	36	4.04
Labourer	26	2.92
Retired	15	1.68
Motor Taxi	14	1.57
Fisher	2	0.22
Driver	4	0.45
No information	184	20.65
Total	891	100

Source – ISIA Report – October 2002.

The affected population as per the ISIA report totals 4,333 in 2,001 households. Thirty percent of the population are in the age group up to 14 years. The able population between 15 to 64 years of age constitute 66 percent while only 3 percent are beyond the able age. The male female ratio is 100:105 among the affected population (Table 2.5).

Table 2.5 Affected Population by Age and Sex

Age bracket	Male	Female	Total	Percentage (%)
0-14	700	625	1,325	30.58
15-64	1,359	1,510	2,869	66.21
65 +	56	83	139	3.21
Total	2,115	2,218	4,333	100
Percentage (%)	48.80	51.20	100	

Source – ISIA Report – October 2002.

2.6 Types of Losses

The types of losses include (i) loss of land (ii) loss of structures, (iii) loss of productive trees and (iv) loss of commune/public assets.

The project right of way will affect a large number of trees. Although the trees are on government land, the possession provides social right to the trees and, therefore, will be considered for compensation.

According to ISIA, some community resource will be affected but only partially in the most cases. Consequently, name of those facilities will not require relocation and access to civil amenities in the project area will largely remain unaffected.

2.7 Community Response to the Project

The ISIA team found positive response to the project. The main concerns voiced by the people are related to proper compensation payments for their relocation and resettlement. The ISIA was conducted on 891 sampled households along the 55 km alignment. The respondents commented positively towards the projects but opted for some mitigation measures for their proper rehabilitation. At least 55 percent of the respondent reacted in favour of the project. While others requested technical and financial assistance towards the interest of the project affected people (Table 2.6)

Table 2.6 PAP Response to the Project

Note/comments	Response	Percent (%)
Never refuse if needed	189	21.21
Need assistance if affected	301	33.78
Some house will be affected	58	6.51
Some land will be affected	45	5.05
Do not increase the width of road	8	0.90
Will discuss if affected or remove	7	0.79
Preventive measure for accidents	6	0.67
Nobody at home	51	5.72
No alternative house or land for living	67	7.52
Unused land	10	1.12
All houses affected	22	2.47
Happy	17	1.91
No response or unhappy	36	4.04
No information	74	8.31
Total	891	100.00

Source – ISIA Report – October 2002

2.8 Simple Survey

2.8.1 Methodology

“Survey of Affected Persons’ Will” (=Simple Survey) which is a pre-condition to the Basic Design Study was conducted.

The simple survey team consists of two groups, each of which is made up of two subgroups respectively. Each subgroup has 4 to 8 staffs. Total 6,478 assets * (houses, fruit trees, tube wells etc) which are possibly subject to compensation within ROW 30m to both right and left from the centerline of the National Road No.1.

First of all, at each section, distance of 30m was measured by scale and location of each asset and its number were identified, and secondly, owners within the ROW were specified and interviewed for their will. A booklets (see the attachment) outlining the project and compensation policy were distributed to the owners of the asses (no matter whether they live in ROW or not), and they questioned if (1) he/she agrees with the project and (2) he/she agrees to move when necessary.

The Simple Survey is only a condition for starting Basic Design study of JICA. From now on, before the full scale assets survey/compensation negotiation (Detailed Measurement Survey; DMS) with respect to resettlement, data obtained from the Basic Design study will be fed back to the Cambodian counterpart appropriately and JICA plans to assist more effective and accurate DMS.

Note: Number of assets means number of interview sheets. Fruit trees were counted one for plural trees belonging to the same owner, however houses was counted as one for one asset. Number of households stated here is number of owners. Owner means having plural houses and some rent them to tenants. So, number of owners and number of households were not identical. Number of tenants are not identified. The owners living outside the ROW were also interviewed. Anyhow, detail will be clearly shown in the DMS.

2.8.2 Results

Simple Survey was commenced from October 16, 2003 and completed on January 11, 2004. Total days used was 88. Number of assets identified was 6,478 as of the date of completion of survey on January 11, 2004. Progress per day just after survey commenced was about 50 assets by 4 teams, however as they became used to, number increased to about 120 assets per day. Through the period, the average per day was 73 assets, which was about 18 assets per day/team.

Result of analysis of the collected data as of 5 January 2004

Out of 5,730 assets of which analysis was completed as of this date, there were 805 assets whose owners were not identified. Interview was made to 4,925 assets whose owners were identified, 4,893 were in favor of the project and 4,807 were in agreement to resettlement. Namely,

	Including those whose owners were not identified	Not including unidentified owners
<u>Question (1)</u> In favor of project	4,893/5,730 x 100=85.93%	4,893/5,730-805 x 100=99.35%
<u>Question (2)</u> Agreeable resettlement to	4,807/5,730 x 100=83.89%	4,807/5,730-805 x 100 =97.60%

Detail of 5,730 assets are as follows.

Item	Quantity
Number of households	4,751
Houses, nos	4,381
Fruit tree, nos	13,280
Tube well, nos	33
Pump tube well, nos	229
Tombs, nos	10
Tombs, nos	41
Pond, nos	2
Fence, m	21,629.10

Number who disagree as of completion date 11 January 2004

The final result of Question (2) was 78 disagree out of 6,478 assets, 2 refuse to reply and 38 non-responsive. Area-wise break-down are as follows:

Location	Number disagreed
Near the terminal Ferry Neak Loueng	13
Near Kokir Market ATA.13 + 700	19
In city Phnom Penh from STA.0+300 to 3 + 330	37
Other scattered points:	11
Total:	80

Main reason for disagree were ;

1. There are no land for relocation
2. Compensation is not clear
3. Do not agree to ROW which government says

Non-response represent (1) the case of express of will “disagree” and (2) there were not head of households to reply properly with responsibility. Most of those who agreed are conditional to compensation. For Survey Report of the Simple Survey and detailed Data Sheet, please refer Reference Materials.

CHAPTER 3 RESETTLEMENT POLICY FRAMEWORK

3.1 Cambodian Land Law

3.1.1 Current legislation

Land laws in Cambodia, evolved to its current state of approach for allowing private ownership, had a long history of evolution. Land was owned by the state before 1975 and after promulgating new laws the Royal Government of Cambodia is trying to provide ownership to private owners. This is a long process and will take much time. However, ownership of land within the ROW is an important issue in planning and implementation of involuntary resettlement.

The current land legislation in Cambodia is based on the new Land Law of August 2001 promulgated by the Ministry of Land Management, Urban Planning and Construction. This law supersedes all the previous laws. According to this new law, any possessor living on land for consecutive 5 years without any disruption, litigation and claims from others or the government, becomes owner of the land¹. However, this rule will not be applicable to the land within ROW.

3.1.2 Background of land ownership and acquisition laws²

The new land law has been in force from the time of its promulgation, which was built on the previous laws and speculations and gives ownership rights to the private individuals. The chronology of legislation on ownership and acquisition of land is as follows:

Land Act of 1884: The French protectorate introduced the concept of private land ownership but was not implemented until 1912 due to opposition.

Cambodian Civil Code of 1920: It established definite land ownership principles, including certification and recording parcels. It still allowed “acquisition by plough” in under-populated and un-surveyed rural areas if one could prove use of the land for five consecutive years.

1954-71: The French concept of land ownership continued. In the mid sixties, Prince Norodom Sihanouk created the royal cooperative system based on the “Buddhist Socialism” using Buddhist principle to convince the rich landowners to share with the poor. There was no confiscation by force and in 1970 Prince Norodom Sihanouk admitted that Buddhist Socialism had not worked.

1970-75 Private property rights continued to be recognised, and were described in Article 14 of the Constitution promulgated on May 10, 1972.

¹ Para-1, page 11, ISIA Feasibility Report – October 2002

²The draft final report on Cambodian Resettlement Policy – October 2001, Regional Technical Assistance of ADB.

Before the Khmer Rouge seized power in 1975, private ownership was widespread and governed by the Cambodian civil code then in effect. During the Khmer Rouge period, land was, in reality, owned by no entity, neither private nor government.

1975-79: Under the Khmer Rouge regime, all private property rights were abolished. The constitution promulgated in 1976 stated that “ All important general means of production are the collective property of the people’s state and the common property of the people’s collectives.

In 1979, after the Vietnamese backed state of Cambodia (GOC) took power, all land came under state ownership. It was not until 1989 that private ownership again became possible. Present law only recognizes claims to land arising since 1979.

During 1979-89: Collective property right for land and housing were maintained. Land was assigned to “solidarity groups” which were 10-15 families meant to jointly farm. The system eventually broke down into family –based farms.

In April 1989, amendments to the 1981 constitution reinstated private ownership right; sub-decree no. 25 plus instruction no. 3 specify those rights. One can only own residential property, and of no more than 2000 square metre after first proving possession with the commune chief. A farmer can obtain possession right to parcel that is less than five hector as long as he lives and uses it continuously.

The land law of the state of Cambodia, Art 2 (August 10, 1992), states “ Cambodians have the right to posses, to use and to succeed (inherit) the land provided by the state for living and doing business”. This land law supersedes any previous laws by virtue of Article 1 which states, The state does not recognise the land property right existing before 1979.”

A right of occupation as a claim to ownership is recognised in Art 74 which states “ if the temporary possessor peacefully, honestly, publicly without any ambiguity holds land for five consecutive years and the land is free with no record in the enrolment register and does not belong to anybody, the temporary possessor shall become the owner”.

Government Prakas no. 06 (September 27, 1999): An Order issued by the GOC, entitled “Measures to Crack Down on Anarchic Land Grabbing and Encroachment” prohibits private ownership on state land.

The current land legislation is based on the new Land Law of 30th August 2001. This supersedes any previous laws through several Articles, for example: Article 4: The right of ownership, recognised by the article 44 of the constitution applies to all land and all building and construction within the national territory in accordance with the conditions laid down by the state. The goods are referred to as immovable goods.

Government ownership of land is again defined in article 10 of the Land Law through “ The state is the owner of the immovable goods of the national territory enumerated in article 58 of the constitution and of all property which is escheat or which has not been subject to a due and proper private appropriation or which is not in the process of being appropriated pursuant to the provision of chapter 4 of this statute³..

³ ISIA Feasibility Report, Para 2 page 11

Current legislation recognised Right of Occupation as claim to the ownership through Article 30 of the Land Law which states that “if any temporary possessor peacefully, honestly, publicly without ambiguity got land for 5 consecutive years and the land is free with no record in the enrolment register and does not belong to anybody, the temporary possessor shall become the owner.”

In sum, the property rights system was introduced in 1884 during French colonization. After Cambodia gained independence in 1953, a western-style land ownership continued until 1975. Land ownership right was reintroduced in 1989, following the failure of the Khmer Rouge regime in 1979 and ten years of unsuccessful collectivised production⁴. The 2001 land law supersedes all the previous laws and ensures private ownership through registration of land in the name of their users.

3.2 Land Registration

Cambodia is in the process of finalising the land ownership rights through registration. There are land disputes related to ownership. The land title registration system adopted under the 2001 land law seeks to eliminate land disputes and give legal security to the landowners⁵.

Before 1989, all real property in Cambodia was owned by the state. There was no certificate of ownership, such as certificate of title. Beginning in 1989 the state of Cambodia, passed and implemented number of measures aimed at privatising state land. In brief, any Cambodian occupying land *at the time of promulgating* the law could file a claim at the local agricultural office for ownership of land occupied⁶.

Land registration today is conducted by the Land Cadastral Department. The issuance of title deed is a lengthy process and most people applied for the registration have got the receipt but not the title deed as yet. However, in absence of other documents, this is considered as a title for land transaction⁷.

Beginning in 1991, a possessory right to use land, which was in effect, a form of land right until the early 1990's could be converted into full ownership rights through the registration procedure. This allowed individuals who were holding land on a possessory basis to convert that interest into full ownership as evidenced by a certificate of title⁸.

Certificates of use still remain today and indicate a temporary possessory right under the 1992 law. About 25 % people have these certificates⁹.

The C-2 RAP¹⁰ adopted by ADB recognised and classified legal status of land use in Cambodia as follows:

⁴ The Daily Cambodia, 2 July 2003.

⁵ Newspaper report

⁶ Page 7 – last para, Report on RETA

⁷ Feasibility Report

⁸ Page 7, Report on RETA

⁹ Page 7, Para – 8, Report on RETA

¹⁰ Cambodia Resettlement Implementation Plan, Ho Chi Minh City to Phnom Penh Highway Improvement Project – October 1999.

Titled privately owned land – is the land to which the owners have official title, and both the owner and the Land Cadastral Department have a copy of the deed.

Untitled privately owned land – is the land that is still awaiting the issuance of a deed to the owner. The Land Cadastral Department recognises the owner.

Land-use rights certified by the government – in these cases a receipt for use of the land has been issued. This land-use right is long term, usually lasting for 20-30 years and is recognised by the Land Cadastral Department.

Leased land – is leased by the government or private owners, usually for a short period of 2-5 years. There is a provision for the owners to get the land back if needed for development purpose.

Illegal occupation – of government owned land for which no land-use rights have been issued. The Land Cadastral Department does not recognise the use of this land.

In urban areas such as Phnom Penh and Siem Reap, a form of ownership is practiced. It is referred to as the “Household Book” in which members of a household are listed, along with the address of their resident.

3.3 Resettlement Policy in Cambodia¹¹

As far as Land Acquisition is concerned, there had been no laws of land acquisition in the Kingdom of Cambodia (page 1 para 3) before the late 1980s. To the extent the pre-1980 laws are in effect, they are administered in an adhoc and unpredictable manner. A 1992 land law only states that when land is taken for the public interest then the land-holders shall receive "just and proper compensation". The 1993 Constitution for the Government of Cambodia had a similar provision. A new land law was adopted in 2001, which allows ownership of land on condition of unrestricted occupancy for long five years or more.

Consequently, there is no national resettlement policy active in the Kingdom of Cambodia. Projects necessitating resettlement are handled differently, depending on the particular donors' specific requirements, even when the same donor funds several projects, the provisions of a resettlement vary.

Compensation for land and assets is performed without a legal framework, using the resettlement plans or simply a governmental authority's discretion. There are no rules and procedures for compensation or valuation other than what may be contained within a resettlement plan. What constitutes just and proper compensation under the Land Law and the Constitution is a contested and controversial issue.

Although most resettlement plans require compensation at replacement cost but determining market price is quite difficult. Thus, valuation of land and other assets are left to local officials, members of the local working group of the Inter-ministerial Resettlement Committee, who are presumed to be familiar with the prevailing rates for land in a particular locale.

¹¹ Executive Summary, Draft Final Report on Cambodia Resettlement Policy and Practices – October 2001, ADB Regional Technical Assistance.

3.4 The Entitlements Policy

The entitlement policy consists of a set of guidelines and criteria that specify the compensation measures each category of PAP is eligible to receive. It also enables the IRC to classify all identified PAPs and to allocate the appropriate compensation packages.

3.4.1 Definition of Terms

The entitlement policy contains terms that define who is to be compensated and what are the parameters of the resettlement action plan. Definitions of the most important terms are as follows:

a) Affected Person(AP)

AP indicates any juridical person being as it may an individual, a household, a firm, or a private or public who, on a account of the execution of the Project, or any of its components or sub-projects or parts thereof would have their right, title or interest in any house, land (including residential, agricultural and grazing land) or any other fixed or movable assets acquired or possessed, in full or in part, permanently or temporarily.

b) Compensation

These terms refer to all types of support system such as money, advice, services, training, etc. provided to eligible PAPs for lost access to land and for the removal of assets. Cash will be the most common type of compensation.

c) Contract Negotiation

After the measurement of affected assets of PAPs, compensation amount is proposed by WG (working group) and negotiated between WG and PAPs. At the same time any grievance of PAPs can be consulted with WG.

d) Corridor of Impact (COI)

COI is the word, used by ADB project predominantly, which indicates the area impacted by road project or by the need to retain site for future use for construction or maintenance. This word is not used in this project.

e) Cut Off Date

This date is the date of simple survey was completed. It will establish that who are entitled to compensation under the NR-1 on **11 January 2004**. Any people moving on to the ROW after the cut-off date will not be considered as PAPs and will be evicted without compensation. If, however, any individual who was not surveyed during the simple survey or DMS can show proof that they were using land in the ROW before the cut –off date will be considered as a PAPs.

f) Detailed Measurement Survey (DMS)

This refer to a survey of assets owned by PAPs, by which compensation amount is determined.

g) Demarcation

This work is to put pegs on the ground indicating boundary line(s) of ROW or PRW.

h) External Monitoring (EM)

External monitoring is carried out by the impartial, independent organization in the purpose to monitor if resettlement activities is properly carried out in accordance with requirement. External monitor is directly hired by JICA.

i) Grievance Committee (GC)

The function of the Grievance Committee is to mediate the dispute, grievance raised by PAPs. The committee member are consisting of local authorities, central government officers and village elder, all of who are impartial and neutral position to the project.

j) Inter-ministerial Resettlement Committee (IRC)

Implementing body of resettlement activities with members consisting of MEF (ministry of economy and finance), MPWT (ministry of public works and transport), MLMUPC(ministry of land management, urban planning and construction), and so on.

k) Landless

This term refers to a condition that the PAP who does not have land, able to make living, other than inside PRW or money to purchase such land.

l) Project Affected Persons (PAPs)

In this Resettlement Brochure, ‘project affected persons’ are defined as householders of project affected households. Usually, PAP simply refer to any individual who is adversely affected, either temporarily or permanently, by the activities undertaken for the project.

m) Public Consultation (PC)

Public consultation is held for PAPs to consult with IRC/Working Group or Commune Authority in the purpose to discuss and solve their issue(s) whatever related to the project including compensation and/or resettlement.

n) Provisional Road Width (PRW)

PRW refers a certain width of road necessary for the present project, within which all the assets have to move outside. In this moment, PRWs are:

STA. km		Distance from centerline to PRW pegs:		Remark
from	to	Mekon River side	Colmatage side	
0.3	1.9	13	13	Most Congested Area
1.9	13.5	15-30	15-25	
13.5	14.0	Existing Road	Existing Road	Kokir Market
14.0	55	5-20	15-30	

o) Public Information Meeting (PIM)

Public information meetings will be held for notifying (1) the project outline to the public and PAPs among all, (2) DMS and (3) relocation site(s). PIM is one of the Stakeholder Meeting.

p) Relocation Site

Relocation site(s) are prepared for those who don't have alternative land affected by the project to resettlement.

q) Resettlement Action Plan (RAP)

Resettlement Action Plan (RAP) is a time-dependant action plan describing (1) outline of project, (2) compensation policy to PAPs, (3) schedules for project and resettlement activities and (4) with a total budget for compensation. The objectives of RAP is to ensure the losses of APs incurred are redressed so that APs can share the project benefits and can be assisted to develop their social and economic potential. The RAP will need to be revised after DMS and also during the Design and Implementation, and Rehabilitation stages

r) Resettlement Activity

Resettlement Activities refer to any activity related to PAPs. This includes, among all, public meetings, simple survey, DMS, relocation site preparation, compensation disbursement, monitoring of rehabilitation of PAPs and grievance redressing mechanism.

s) Right of Way (ROW)

ROW refers that a certain width of the road, railway or river from centerline is considered to belong to State and can be necessary for future development. Occupants within the ROW are assumed not legalized according to Prime Minister's Declaration in 1999.

t) Set Back

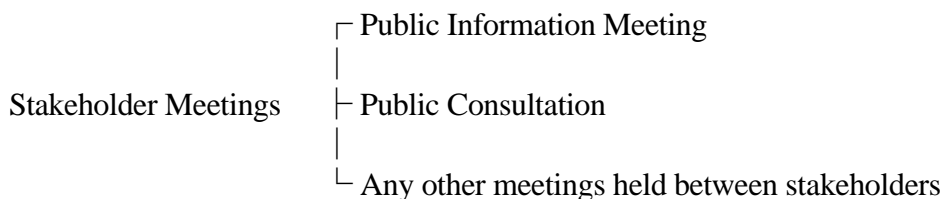
This word refers to, for PAPs who have to go out of the PRW, relocating their houses, by the distance several meters backward from present location to outside of PRW in the most cases. Set back is possible only when vacant lands are available behind or nearby their present houses.

u) Simple Survey

As a milestone to proceed to next DMS stage, the simple survey is performed, by which it is clarified if the project related residents (residents within the ROW for example) are with or against the development project. In case 70 to 80% of interviewed express agreement, the project is considered to be welcomed and able to proceed to the next stage.

v) Stakeholder Meeting

Stakeholder is any person/organization in related to the project directly or indirectly. Therefore, stakeholder meeting refers meetings with any person or organization that are involved in the project including PAPs, NGO and/or implementing agency. Public Information Meeting is one of modes of the Stakeholder Meetings.



w) Vulnerable Households

Vulnerable households refer to households, headed by either widow, aged, handicapped or poor (with income less than 10\$/month) householders, whose income are only or primary sources for those household.

3.4.2 Compensation Measures

The project is committed to devise compensation measures like cash compensation and institutional support provided to eligible PAPs. A Detailed Measurement Survey (DMS) will be carried out by the GOC covering 100% affected houses to quantify and categorise the affected households and structures. The ownership of land of the people living within ROW more than five years is not be recognised for compensation. Compensation/support proposed are to:

- 1) loss of land
- 2) loss of structures,
- 3) loss of productive trees
- 4) loss of commune/public assets
- 5) Allowances for disruption/resettlement and for vulnerable households

Compensation for structure and other assets including trees and crops will be based on price determined by IRC. The salvaged materials of the structures will be allowed to use by the PAPs at new sites free of cost.

It is noted that compensation is made one time only. PAPs, although who were allowed to remain within the ROW for this project, will not get compensation again when they have to move outside ROW for the future project.

The compensation/mitigation measures comprise for:

1) Loss of Lands

a. Residential/Commercial Lands

- ✓ In principle, no cash compensation is made for land.
- ✓ It is allowed to remain within ROW, by setting back outside PRW if the land is available, long time peacefully occupied and village members acknowledge it.
- ✓ In addition, following is entitled to landless PAP depending on remaining land area he/she occupies outside PRW as:
 - (1) less than 30 m², alternative land in the relocation site is provided if he/she requests to move there. Thus, the landless PAPs can obtain the land with land title as well.
 - (2) equal or more than 30 m² but less than 60 m² and this remaining area seems to be not enough to afford whole of his/her family, provision of alternative land in the relocation site may be considered if he/she requests. Decision will be made by IRC depending on the actual condition of the families and plot remained.
 - (3) equal or more than 60 m², no alternative land in relocation site is provided.
- ✓ It is noted that if the landless PAPs, after provision of alternative land in relocation site, is found to have been not really landless, i.e., having other land to live and/or enough money to purchase such land, his/her land will be retrieved and punished. In this sense, the PAPs is recommended to be very frank to Working Group for the compensation/support.

b. Agricultural Land

Standing crops are allowed to harvest only. No alternative land for cultivation is provided.

2) Loss to Structures

‘Structures’ includes; thatch/ timber/ brick houses, concrete/ timber fences, concrete/ timber bridges, water tank and well, all of which are immovable. Easily movable structures, such as stand, stall and booth are not compensated.

- ✓ In principle, compensation for structures is made in accordance with government price based on categories for the portion within PRW only as listed in the appendix.
- ✓ Exceptional compensation is granted for the portion of structure located outside PRW also, only when he/she has to resettle, either to relocation site or to other place due to remaining area outside PRW is:
 - (1) less than 30 m² or
 - (2) sometimes less than 60 m² with which area it seems to be not enough to afford whole of his/her family.

It is noted that those, who voluntarily resettle out side of ROW because of other than above two reasons, are not get compensation for the structure remaining inside ROW out of PRW in principle.

3) Loss of Productive Trees

‘Productive trees’ refer to fruit trees, bamboo and rubber as listed in the appendixes.

4) Loss of Public/Commune Assets

Cash compensation with government price or preparation of equivalent assets lost by the project .

5) Allowances for disruption/resettlement and for vulnerable households

a. Disruption and Resettlement Allowances

Those whose houses are affected (partially or totally demolished), by which their lives are disrupted

- ✓ Disruption allowance 40\$/household is provided as support for meal and/or income loss while reconstruction/repair of their residential houses.
- ✓ No disruption allowance is provided for the reconstruction of buildings other than of residential purpose.
- ✓ For those whose houses are affected so that they have to moved to relocation site or other places outside ROW, resettlement allowance 40\$/household is also provided in addition to disruption allowance above.

b. Vulnerable Allowance

Households headed by widow /aged /handicapped /poor householders, whose incomes are primary sources for the whole household members

- ✓ Cash allowance 20 \$/household to each household applicable is provided.

Table 3.1 Compensation/Mitigation Policy for Assets inside ROW*

Type of Loss		Entitlement
General Notes		<p>✓ Compensation is made one time only. PAPs, although who were allowed to remain within the ROW for this project, will not get compensation again when they have to move outside ROW for the future project.</p>
Loss of Land	Residential land/commercial land	<p>✓ In principle, no cash compensation is made for land.</p> <p>✓ It is allowed to remain within ROW, by setting back outside PRW if the land is available.</p> <p>✓ In addition, following is entitled to landless PAP depending on remaining land area he/she occupies outside PRW as:</p> <p>(1) less than 30 m², alternative land in the relocation site is provided if he/she requests to move there</p> <p>(2) equal or more than 30 m² but less than 60 m² and this remaining area seems to be not enough to afford whole of his/her family, provision of alternative land in the relocation site may be considered if he/she requests.</p> <p>(3) equal or more than 60 m², no alternative land in relocation site is provided.</p> <p>✓ It is noted that if the landless PAPs, after provision of alternative land in relocation site, is found to have been not really landless, i.e., having other land to live and/or enough money to purchase such land, his/her land will be retrieved and punished.</p>
	Agricultural land	<p>✓ Standing crops is allowed to harvest only</p>

Type of Loss		Entitlement
Loss of Structure	Thatch/ timber/ brick houses, concrete/ timber fences, concrete/ timber bridges, water tank and well	<p>✓ In principle, compensation for structures is made in accordance with government price based on categories <u>for the portion within PRW only</u>.</p> <p>✓ Note that no compensation is provided for movable stalls and stands.</p> <p>✓ Exceptional compensation is granted for the portion of structure located outside PRW also, only when he/she has to resettle, either to relocation site or to other place due to remaining area outside PRW is:</p> <p>(1) less than 30 m² or</p> <p>(2) sometimes less than 60 m² with which area it seems to be not enough to afford whole of his/her family.</p>
Loss of Productive Trees	Fruit Trees, bamboo, rubber tree and so on	✓ Cash compensation based on the investment and productivity of the tree.
Loss of Commune Public/Assets	Meeting halls, market	✓ Cash compensation with government price or preparation of equivalent assets lost by the project
Allowances for residential houses affected	Those whose houses are affected (partially or totally demolished), by which their lives are disrupted	<p>✓ Disruption allowance \$40/household is provided as support for meal and/or income loss while reconstruction/repair of their residential houses.</p> <p>✓ No disruption allowance is made for the reconstruction of buildings other than of residential purpose.</p>
	Those whose houses are affected so that they have to moved to relocation site or other places outside ROW	✓ Resettlement allowance \$40/household is also provided in addition to disruption allowance above.
Special Allowance to Vulnerable Households	Households headed by widow /aged /handicapped /poor householders, whose incomes are primary sources for the whole household members.	✓ Cash allowance \$20/household to each household applicable is provided.

*Assets outside ROW is negotiated, not restricted to these policy

3.4.3 Taxes and Government Fees

The government will be responsible for all fees and taxes PAPs have to pay as a result of any transaction associated with their relocation or compensation/assistance. In some projects, salvageable materials are given back to the owner free of cost but in some cases the price is deducted from compensation, in addition to the proactive of deducting a substantial percentage of the land valuation as a "contribution" for development prior to the compensation being paid. Deduction of structure value from the compensation has been criticised from concerned corners.

PAPs will not get compensation for land although they did some development to it like earthwork. Besides, they will have to erect the house in the lowest part of the ROW that will be very costly. Therefore, deduction of cost of salvageable from the compensation will not be justified.

As there will be Relocation Site(s), there will be need to incur stamp duty for registration of the plot in the name of the PAPs.

3.5 Management of Future Encroachment

After relocation some people settle on the ROW and demand compensation again. According to Prime Minister Declaration on 27 September 1999, the ROW of National Road –1, 4 and 5 is set 60 m except in the populous area. The illegal occupant of this land is not entitled to any indemnity for any works and improvements carried out on the land or the building.

This is also in accordance with the Decision no. 961, noted above, wherein the GOC informs that it will not make payments for structures or other assets located on the ROW. Moreover, under the new land law, persons having asset on the ROW are to be punished more heavily if a failure to relocate results in delays to work for public interest.

By law, a permit shall be issued for construction of concrete/brick structures. Thus, structures on land located in right of way, public safety areas, etc. will not be issued a permit, are considered illegally built, and are subject to demolition by the GOC without compensation¹².

It is understood that sometimes people resettle on the ROW land after receiving compensation. They should be restricted. The reconstruction grant can only be paid after the PAP has built the house on land designated by the project or by himself/herself for his/her use as homestead/commerce.

The provincial authorities including the Provincial PWD must make regular announcement in communities along the road regarding government ownership of the ROW and sanctions against violating the existing laws. They should encourage local leaders to inform people that no compensation will be given to people who move on to the ROW and that such individuals risk losing crops or buildings.

¹² Draft Report on Cambodian Resettlement Policy and Practices – October 2001, ADB Regional Technical Assistance.

CHAPTER 4 INSTITUTIONAL FRAMEWORK AND SCHEDULE OF RAP

4.1 Project Implementation Organisation

4.1.1 Inter-ministerial Resettlement Committee (IRC)

The IRC has been established by the Royal Government of Cambodia that consists of representatives of the Ministry of Economy and Finance, the Ministry of Public Works and Transport, the Ministry of Agriculture, Forestry and Fisheries, representatives of Phnom Penh Municipality, Governors and Deputy Governors of the project related provinces.

4.1.2 Resettlement Unit

A Resettlement Unit will be set up under the IRC and will work in cooperation with the Project Management Unit (PMU) of the MPWT to ensure the effective implementation of the project. The Resettlement Unit should:

- a) Conduct Detailed Measurement Survey by IRC.
- c) Undertake overall planning and management of resettlement programmes.
- d) Ensure that all eligible PAPs have been identified and are aware of their entitlements.
- e) Ensure that staff at all levels understand the project and train resettlement staff at Provincial, District and Commune level in the planning and implementation of the resettlement activities.
- f) Be responsible for supervising the disbursement of compensation to PAPs.
- g) Create and update a database of resettlement related information on a regular basis.

4.1.3 Project Management Unit

A Project Management Unit (PMU) will be established within the MPWT to implement the project.

The staff of the PMU will be involved in preparation of the project documents including the Initial Environmental Examination and Social Impact Report, the Economic Evaluation of the Project and with the Initial Impact Survey for this Resettlement Action Plan.

The areas of activity for the PMU during the project's implementation include:

Construction Supervision

Contract Administration and Management

Quality Control Procedures

Detailed Design

Financial Management

Training and Human Resource Development

4.1.4 Provincial and municipal resettlement units

Resettlement offices will be established at Provincial level and administered by a Provincial Resettlement unit, which is headed by Provincial Governors or Deputy Governors and located within the Provincial Public Works Department. They will be responsible for all aspects of resettlement management within the provinces.

In the municipality areas, Municipality Resettlement Units will be responsible for implementation of the RAP for compensating recognised losses of the project affected people. Municipality and Provincial Resettlement Units will be established to handle the resettlement issues properly.

4.1.5 District and Commune Resettlement Units

District Resettlement Units will be responsible for the identification of Relocation sites if needed, the development of on-site services and the allocation of plots within sites; while the Commune Resettlement Units (composed of local officials and PAPs) will act principally as information conduits to ensure the timely implementation of the project activities. This will ensure that PAPs are kept fully informed of the project development and that the Commune Resettlement Units inform the District and Provincial Resettlement Units of PAPs opinions and of any problems at the earliest possible stage. Figure 4.1.5 shows the RAP implementation organisation.

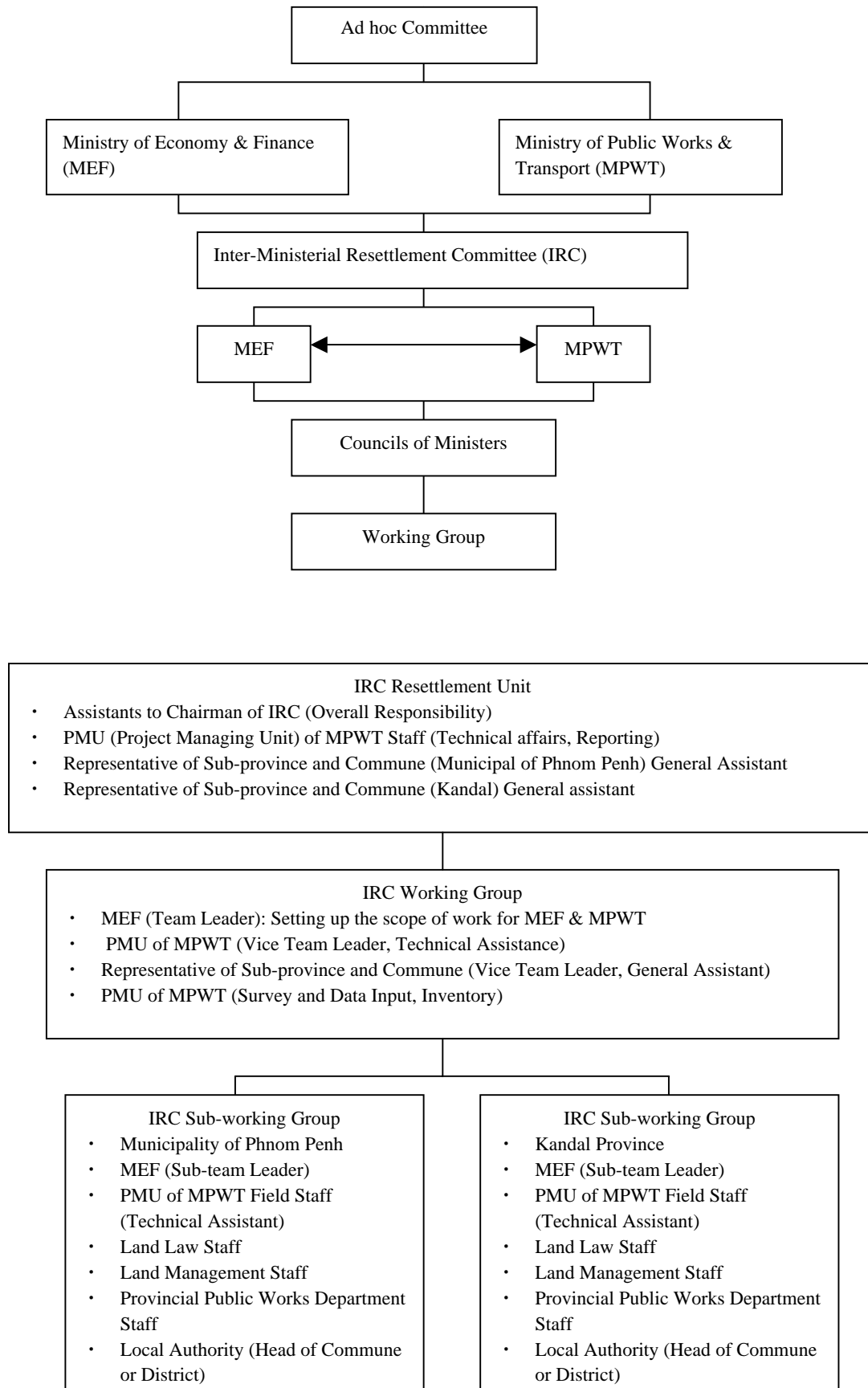


Figure 4.1 RAP Implementation Diagram

4.2 Implementation Schedule

The implementation of the project will consist of four major stages in conformity with the construction timetable. The stages are:

Implementation cut-off date:

Community Consultation :

Verification and consultation procedure:

Relocation and resettlement of PAPs:

The process of resettlement activities in collaboration with the Japanese Side is presented in Figure 4.2. The implementation time schedule is given in Table 4.1. The implementation time schedule has to be developed based on practical requirement.

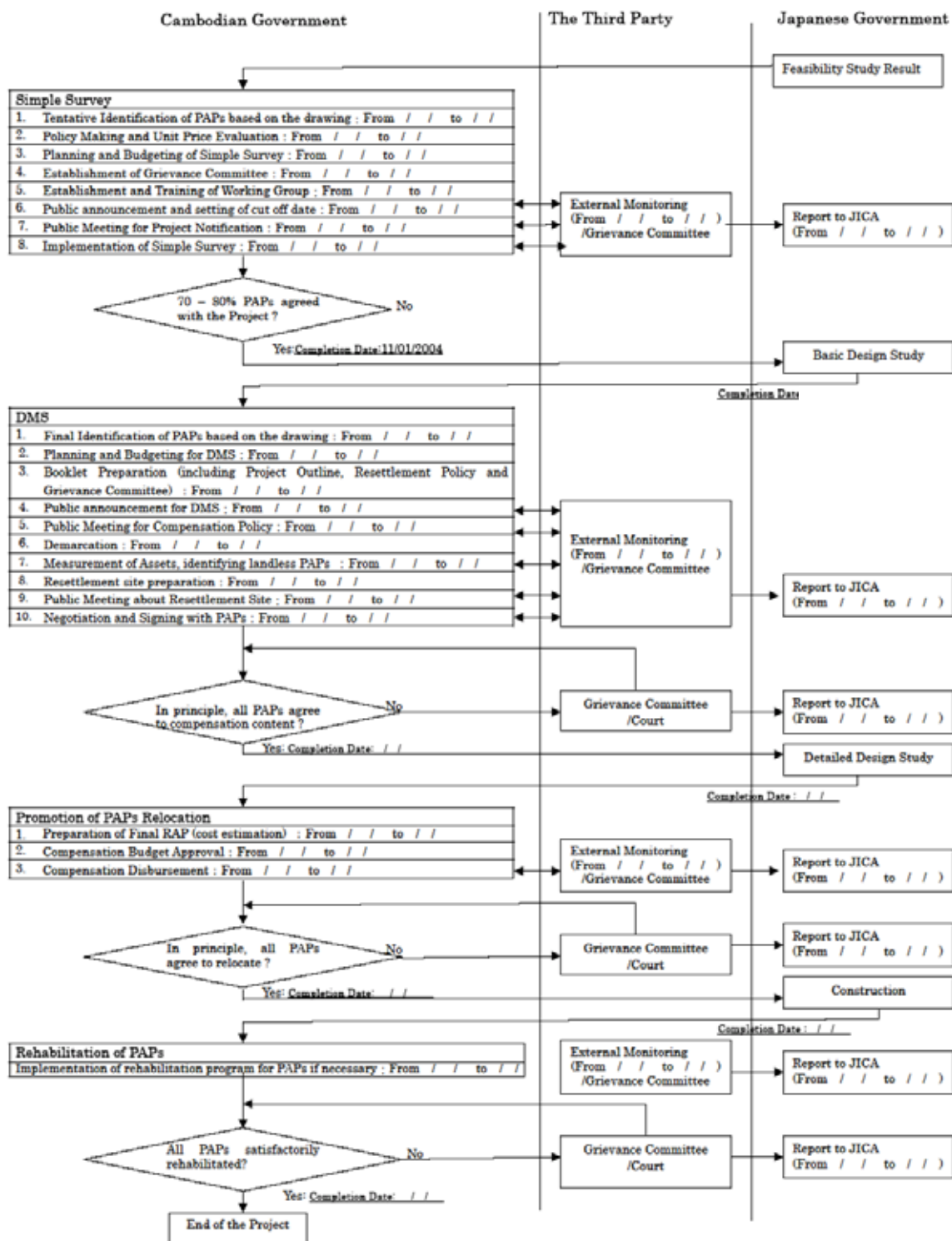


Figure 4.2 Process of Resettlement Activities

Table 4.1 Planning and Implementation Schedule (Tentative)

	Month	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
A	Preparatory Stage																														
	1. Simple Survey																														
	2. Cut-off-date																														
	3. Draft RAP																														
	4. Basic Design Study																														
	5. Detailed Measurement Survey																														
	6. Public Information Meetings																														
	7. External Monitoring																														
	8. Stakeholder Meetings																														
	9. Formulation of Grievance Committee																														
	10. Detailed Design Study																														
B	Implementing Stage																														
	11. Development of Relocation Sites																														
	12. Cash Disbursement to PAPs																														
	13. Relocation of Self-relocated Households																														
C	Supervision and Monitoring																														
	14. Submission of External Monitoring Report																														

CHAPTER 5 COMMUNITY PARTICIPATION AND GRIEVANCE RESOLUTION

5.1 Public Information Meeting

Public information meeting is carried out among PAPs in the related communes of the objectives for resettlement. According to the results of the Simple Survey completed on January 2004, more than 90% of the affected households express consent basically at the initial step before starting negotiation about actual compensation. If relocation is required, land to which houses are relocated is secured and basic agreement from host community/landowner which receive the relocated houses shall also be obtained.

5.2 Steps to Ensure Community Participation

The Executing Agency by way of its IRC will publish brochure, posters, leaflets, etc. explaining the impact of the Project, compensation policies for PAPs, resettlement options / strategies for households and commercial /business enterprises, and tentative implementation schedule of the project. Further steps will be taken to (i) keep the affected people informed about the land acquisition and project plan, compensation policy and payments, and (ii) ensure that PAPs will be involved in making decisions concerning relocation and implementation of the RAP.

5.3 Information Dissemination and Feedback

The resettlement program will begin by explaining the entitlement policy and resettlement options to the PAPs and soliciting their support and cooperation. This program will be carried out by the resettlement unit of the IRC in conjunction with the MPWT's PMU. In order to meet the requirement for community participation and consultation the IRC will prepare and issue an information booklet to all PAPs. Information dissemination will be resorted to for achieving the following:

- explain the relevant details of the Project;
- explain the RAP and the various degrees of project impact;
- provide details of the entitlements under the RAP and what is required of PAPs in order to claim their entitlement;
- explain the implementation schedule with a timetable for the delivery of entitlement;
- explain the compensation process and set out compensation rates;
- provide a detailed explanation of the grievance process;
- solicit the help of village leaders and other influential community leaders for encouraging the participation of the PAPs in the RAP and

- attempt to ensure that all vulnerable groups understand the process and that their needs are specifically taken into consideration.

It will also be essential that PAPs have the exact method of the calculation of their compensation explained to them when required. This process has to be carried out by IRC and its working groups in DMS.

The information dissemination will be followed by strategic approach for collection of data and opinions from the PAPs in the form of feedback. These data will be processed for identification of potential PAPs entitled for compensation and in determination of the entitlements.

5.4 Verification of Entitlements

At the time of payment of compensation the identity of all PAPs will have to be verified. A PAP verified entitled for any compensation is called an Entitled Person (EP). The verification procedure will entail checking the recorded address and verifying assets recorded in the DMS and the recipient producing a valid identity card. The exact method of the calculation of compensation will be explained to PAPs during DMS.

Upon payment of compensation the PAP or his/her representative is to sign an “Acceptance of Payments” form that is also to be signed by the representative from the Resettlement Unit and countersigned by the Local Authorities and the independent monitoring or auditing agency. The form lists assets affected and rates of compensation paid for them and other assistance provided to the PAP, including special provisions for PAPs identified during the survey as members of vulnerable groups.

By signing the form, the PAPs confirm that the amount of compensation provided has been calculated correctly.

5.5 Grievance Redress Process

In the process of resettlement, APs raise disputes relating to ownership of the property and sharing of compensation. Sometimes, loss recorded against somebody can also be an issue. In order to resolve any problem or constraints for smooth operation of resettlement, Grievance Committee (GC) should be vital within the project for the affected people to suit their complaints and have solutions.

The main objective of the grievance procedure is to provide a mechanism to mediate conflict and reduce lengthy litigation that can delay infrastructure projects. It also provides people who have objections for concerns about their assistance with a recognisable procedure through which to raise their objections and have them resolved.

5.5.1 Structure of grievance committee

The local office such as Phnom Penh Municipality or Kandal Province will have its own Grievance Committee (GC), respectively, comprising of the provincial governor, commune head in relevant, village elder(s) of commune(s) in relevant, a staff of MEF, and representative of EMC and staff from provincial PWT as a technical advisor/observer, and also a secretary from governor's office.

5.5.2 Function of grievance redress process

The functions of the grievance redress process will be:

- to make all PAPs aware of the process of the RAP and entitlement policy and of the timetable for implementation;
- to provide support for the PAPs on problems arising out of their adjustment to their new environments;
- to record grievances of the PAPs and categorise and prioritise those grievances that need to be resolved by the Grievance Committee;
- to assist the PAPs in dealing with the decisions of the Grievance Committee (the Grievance Committee should be given the power to resolve all but the most serious of grievances subject to decision from a court of law); and
- to report new developments to the aggrieved parties regarding the hearing of their grievances.

5.5.3 The resolution procedure

The grievance process must be explained to every PAPs at the time of DMS and compensation payment. The process should be as follows:

- i) A PAP with a grievance contacts the Working Group by letter, describes what the grievance is and indicates what the corrective measures might be. This appeal must be concluded within 15 days of receiving official notification of the entitlement.
- ii) If the decision is not in favour of the aggrieved party, or he does not get reply within 15 days from the working group, he/she can lodge to Grievance Committee through local authority offices. GC shall conclude within 30days after the grievance was lodged to the local authority.
- iii) If the decision is not in favour of the aggrieved party, or he does not get reply within 15 days from the working group, he/she can lodge to the court.

5.5.4 Expression of grievances

It is recognised that in many cases PAPs do not have writing skills. Therefore, possibility of expressing grievances verbally has also been considered. However, PAPs are encouraged to seek assistance from other family members, village heads or community

chiefs to have their grievances recorded in writing to ensure that where disputes occur all the details have been recorded accurately enabling all parties to be treated fairly.

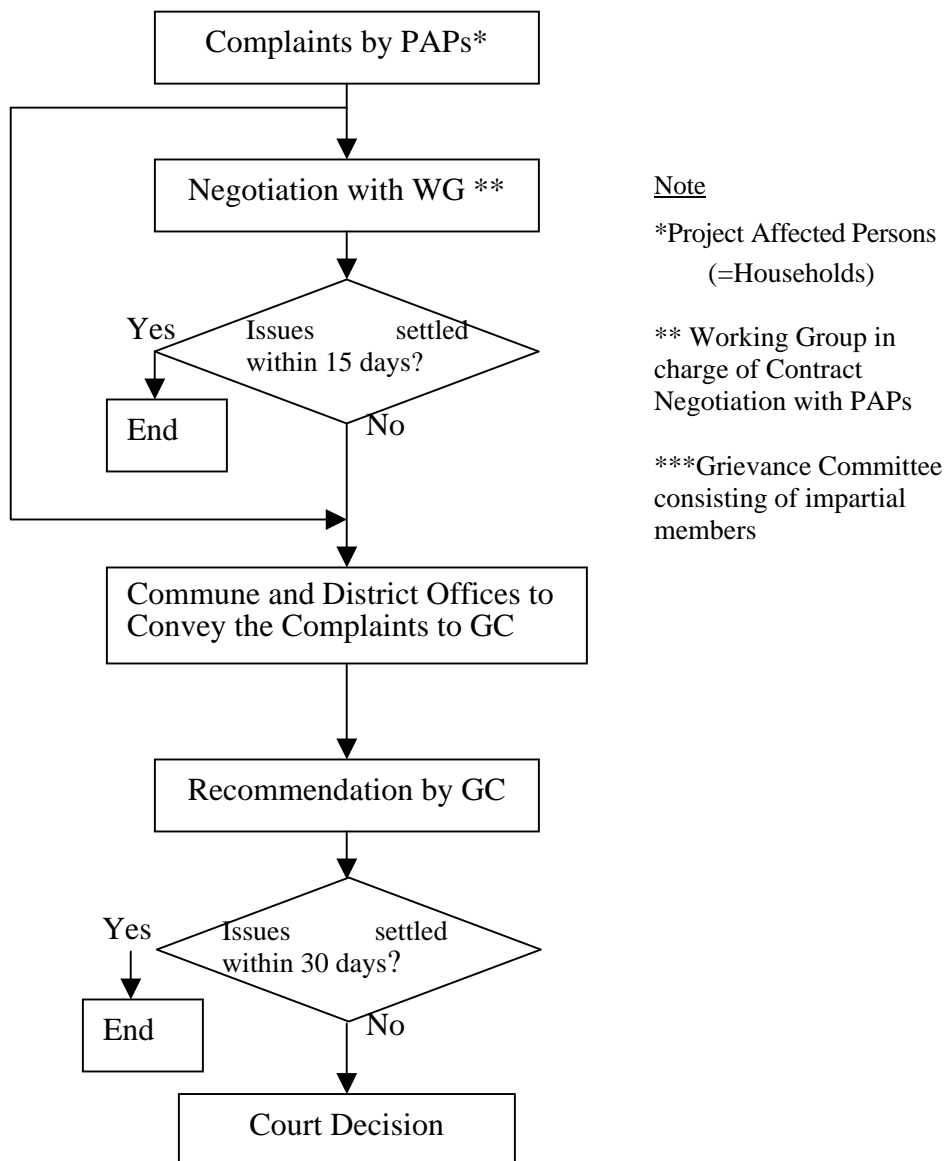


Figure 5.1 Grievance Committee Process

CHAPTER 6 RELOCATION AND RESETTLEMENT PLAN

6.1 Extent of Displacement and Relocation

According to the ISIA report, 2,001 households in 1,810 houses will require relocation from the tentative right of way. Among them there are shops independent or attached to the houses those will be affected in their income from commerce during the dislocation period until they are set in a new environment. Since the alignment is an existing road, there is encroaching business activity in the impact area. The structures are largely made of moveable materials and consist of combined residential and commercial use including shops, restaurants and other buildings.

DMS will be required to understand the vulnerability, gender issues, poverty situation and minority aspects of the affected population. This will enable quantification of losses and their dimensions to prepare a practical and more accurate resettlement budget.

6.2 Relocation Options and Strategies

Given that TROW under consideration of the project for improvement of the road section, there will be adequate land in both sides of the alignment within the right of way acquired before 1975 with an equal width of 60 meters. Still there may be exceptions and some households may opt for self-relocation rather than a group relocation at particular locations where there might be shortage of adjacent lands for relocation.

The ISIA accumulated responses of the sampled households where 45 percent opted for conditional relocation preferably with an external assistance in the form of resettlement program assistance. However, DMS will provide accurate guideline for relocation strategies for the affected people.

6.3 Gender and Vulnerability Planning in Resettlement

The RAP has special provisions for the project affected women, ethnic groups and poorer households to meet their needs and means of subsistence for (i) provision for additional cash assistance; (ii) assistance for finding out new site for accommodation. The IRC may utilise the services of a Gender Specialist from the supervision consultants to organise affected women in groups and to involve them in income generating activities if necessary.

Vulnerable groups like those who will experience a greater degree of disruption socially or economically than the general population, female headed households, disabled head of households and households below the Cambodian poverty line will be provided with special assistance as above.

6.4 Detailed Measurement survey (DMS)

For appreciation of this RAP with the project situation, DMS for inventory of the affected houses will be carried out by the MPWT. DMS will provide quantities and extent of losses of the project-affected people including vulnerability situation. The census will provide the benchmark of pre-project situation.

6.5 Resettlement Budget

The Resettlement Budget will be prepared on quantity losses estimated through the DMS and Census and the rates determined by MEF. Total budget for resettlement and implementation of the RAP comes to US\$ 15,005,322.50/- subject to updating after the DMS completed.

6.5.1 Incremental cost for RAP

In addition to direct compensation costs of the RAP, there will be incremental costs associated with the implementation of the RAP. These will involve monitoring, evaluation and reporting by the IRC and resettlement unit and the independent monitoring of the RAP by the EMC. The incremental cost is anticipated as follows:

Table 6.1 Incremental Cost for RAP Implementation

Item	Unit	Quantity	Unit Rate (US\$)	Total Cost (US\$)
Community Consultation	Month			
Monitoring	Month			
Evaluation	Month			
Reporting	Month			
Administration	Month			
Grievance Committee	Month			
EMC	Month			
BME	Lump			
Total				

6.5.2 Cost of RAP implementation

Total compensation as per the ISIA amounts to US\$ 2,220,000. The draft of the total cost for the RAP implementation has been given in the table 6.2 below:

Table 6.2 Cost of RAP Implementation (Tentative Only)

Items	Unit	Quantity	Unit (US\$)	Rate	Total (US\$)
<u>House Structure</u>					<u>1,214,247.30</u>
House type I	Sq.m	1,910.20	4.50		8,596
House type II		35,819.20	12.00		429,830
House type III		3,746.20	85.00		318,427
House type IV		3,267.10	140.00		457,394
<u>Fences & other assets</u>					<u>24,812.80</u>
Concrete fence	M	4,787.00	4.86		23,265
Wooden fence		314.00	0.75		236
Barbed wire fence		1,750.00	0.75		1,313
<u>Trees/plants</u>	No.		-		<u>146,261.50</u>
Mango		1,263	30		27,890
Coconut		2,753	15		41,295
Jack Fruit		1,959	20		39,180
Guava		772	2.5		1,930
Kampinath		577	25		14,425
Lemon		54	3.5		189
Plasan		403	20		8,060
Papaya		1,317	2.5		3,292.5
<u>Allowances</u>	HH				<u>130,000</u>
Disruption Allowance		2,000*	40		80,000
Resettlement Allowance		1,000*	40		40,000
Widow (Number 20%)		400*	20		8,000
Households income<\$10.month		100*	20		2,000
<u>Total</u>					<u>1,505,322.50</u>

*:Over estimated assumption for budget preparation purpose only

Source: ISIA and consultants estimate as per DMS/Census.

CHAPTER 7 MONITORING, EVALUATION AND REPORTING

7.1 Monitoring the Planning and Implementation work of RAP

Monitoring of the resettlement implementation works enables the executing agency and its deputed agencies to perform all activities efficiently. Through monitoring, constraints, obstacles and loopholes of the implementation process, if any, will be identified and corrective measures for polishing the performance will be suggested. Monitoring of the implementation works will be carried out with the clear realisation that each of the PAPs have to be fully resettled, giving them all their entitlements as per the Compensation Entitlement Matrix of the RAP so that they become at least as well off as before.

The Government of the Kingdom of Cambodia is responsible for ensuring well-being of the project affected people through planning and implementing the RAP properly. The JICA and its appointed agency(ies) will be monitoring project implementation methods and achievement of targets by the GOC. Both internal and external monitoring will be resorted to for achieving the goals.

7.1.1 Internal monitoring and reporting

The Project Management Unit of the GDPW will be responsible for internal monitoring of the project impact mitigation measures and their outcomes. The IRC resettlement unit will ensure timely payment of compensation to the PAPs and preparation of resettlement operation on schedule. Baseline database will be needed for the resettlement monitoring system to be created.

The Resettlement Unit will develop a project performance reporting structure. This will quantify the number of PAPs fully or partially compensated during the reporting period, the number of PAPs resettled from specific stretches of road and the outcome of grievance process.

7.1.2 External Monitoring

An External Monitoring Consultant (EMC) will be appointed for external project monitoring. The NGOs may have good access to the people affected and have sufficient personnel to monitor the activity at the field level. The EMC will be appointed at the time of very inception of the project and should be financed from the Japan Grant Aid to ensure independent monitoring of the planning and implementation works of the RAP. The EMC will be responsible for progress monitoring and the well-being of the PAPs.

7.2 Evaluation of RAP Implementation

The IRC shall undertake two evaluations of the RAP implementation. These evaluations will focus on the success of RAP measures in meeting their objectives, identify lapses and recommend mitigating measures, if necessary. Each evaluation will also report on implementation progress according to the specified timetable and recommend changes in implementation process where necessary.

The evaluations will have sufficient space so as to ensure application of the recommendations and achievement of the objectives of the RAP at the standard and up to the expectation of the JICA.

7.3 Reporting progress

7.3.1 Objectives

Exchange of information among stakeholders on the status of performance of various actions relating to resettlement of the project affected persons as per the Resettlement Action Plan is a pre-condition to effective co-ordination and success. There should be a supporting tool for understanding as well as foreseeing the targeted actions and achievement thereon for ensuring timely actions for any laps. An analytical report on various actions, their effectiveness, performance in achieving its objectives, sketching constraints and probable solutions to them can instantly help the stakeholders with an insight of the matters relating to proper resettlement. A reporting on progress of resettlement activities on a regular interval is very crucial to monitor the overall position of the activities. The project inputs for progress reports cover monthly target and achievements of resettlement activities.

7.3.2 Process of reporting

The RU, GOC will prepare and submit reports on the progress and achievement while the EMC will prepare and submit reports on monitoring in a timely basis.

The reporting will cover the following:

1. Understanding the requirement of the policy makers and its implementers in connection with the RAP and thereby prepare a set of precisely designed monitoring formats for reporting;
2. Setting up targets in a time bound milestones segregated into monthly targets so as to ensure timely identification of laps and taking corrective measures;
3. Preparation of group and/or task-wise progress reports at field level by IRC field operatives;
4. Monthly Report from the field reflecting the performance of the field operatives;
5. Monthly progress monitoring report in monitoring formats from site offices of the EMC;
6. Preparation of Monthly Progress Report compiling the area wise reports with the observation from senior operatives of the EMC.

7. Preparation of the Inception Report, On-call Reports, Draft Completion Report and Final Completion Report.
8. Preparation of write-ups on different issues suggesting corrective measures, as and when necessary.

7.3.3 Distribution of reports

The inception and achievement reports will be required by :

General Directorate of Public Works

PMU, Resettlement Unit in all local levels

Japan International Cooperation Agency

The Construction Supervision Consultants

Royal Government of Cambodia
Inter-ministerial Resettlement Committee

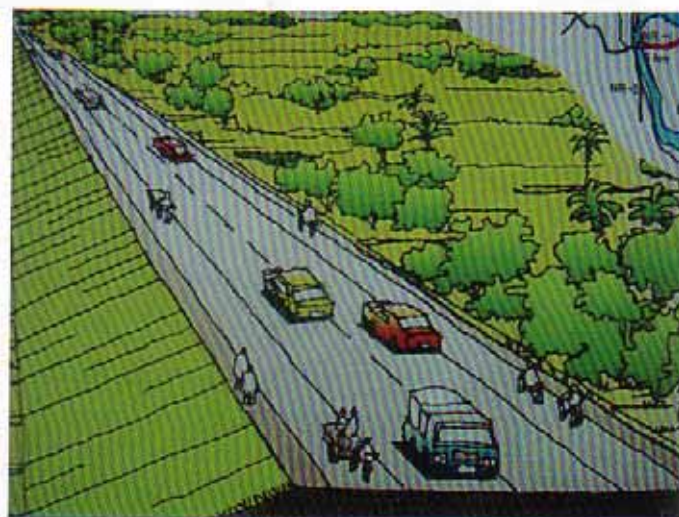
RESETTLEMENT BROCHURE

(DRAFT)

Guidelines on Compensation Policy
for Project Affected Persons (PAPs)

National Road No.1 Rehabilitation Project

2005



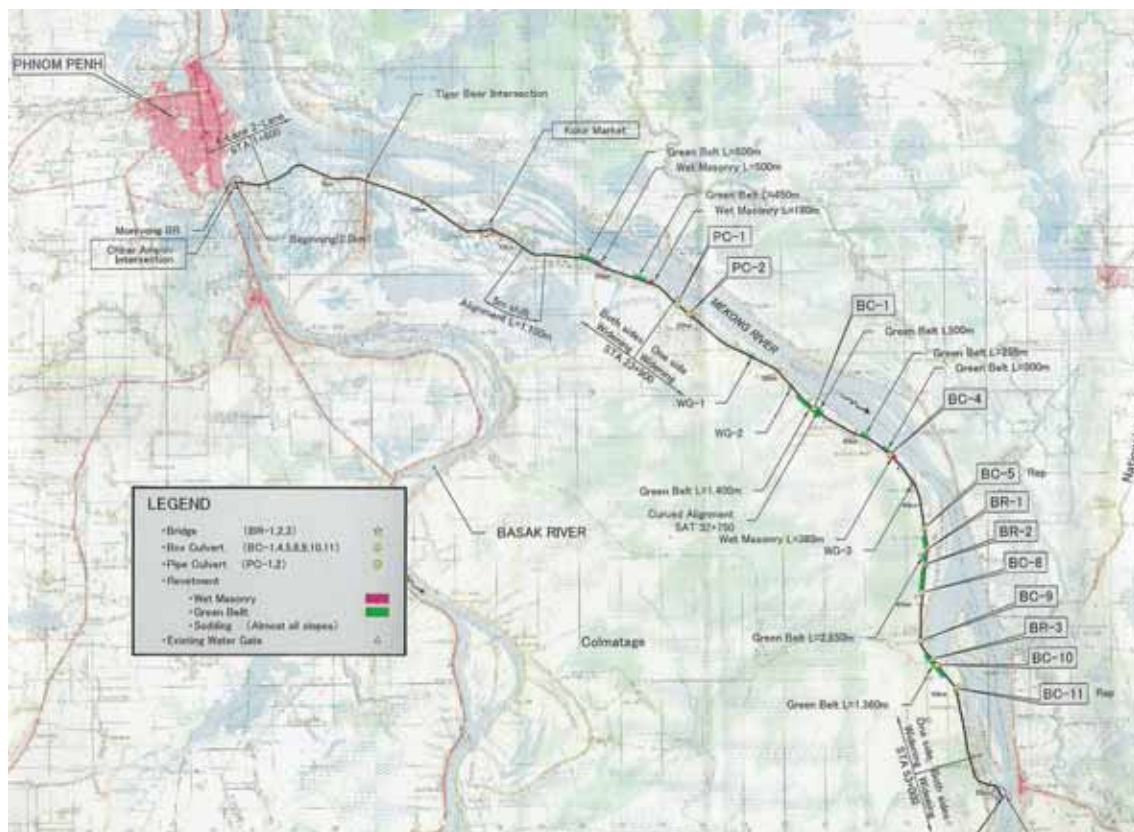
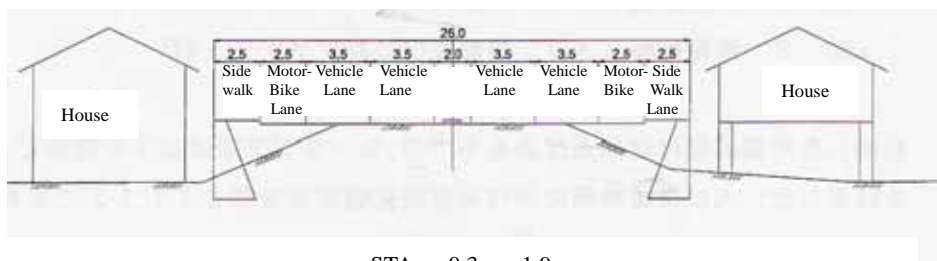
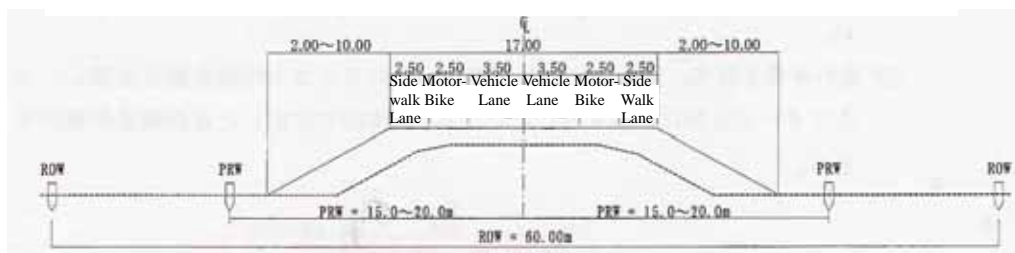


Figure 1 Location of the Project



STA 0.3 ~ 1.9

Cross Section around Starting Points Heavily Congested



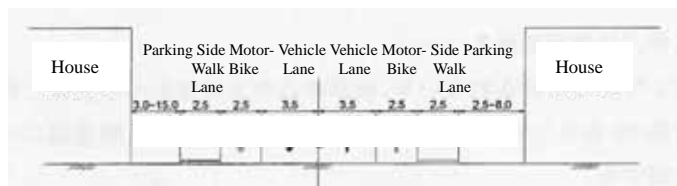
STA 1.9 ~ 13.5

STA 14.0 ~ 15.7

STA 16.6 ~ 23.9

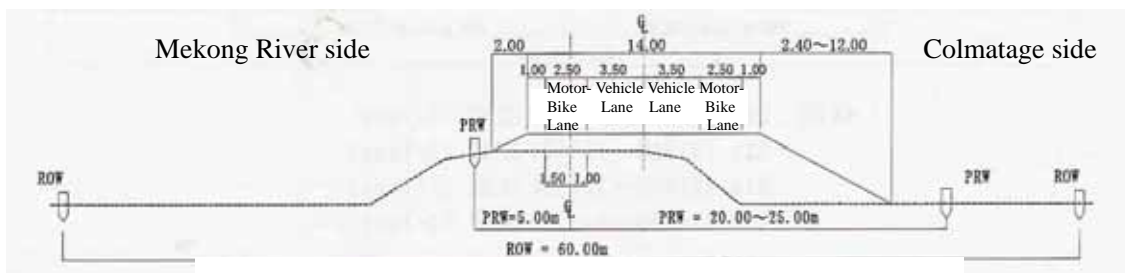
STA 53.4 ~ 54.7

Cross Section for Both Sides Embankment



STA.13.5 ~ 14.0

Cross Section at Kokir Market



STA.23.9 ~ 53.4

Cross Section at One Side Embankment

Figure 2 Typical Road Cross Sections

INTRODUCTION

The General Directorate of Public Works (GDPW) under the Ministry of Public Works and Transport (MPWT), the Royal Government of the Kingdom of Cambodia (GOC), plans to improve 55 km stretch of the National Road No. 1 (NR-1) from Phnom Penh to Neak Loeung (hereinafter called “the Project”) with a Japanese grant. The Japan International Cooperation Agency (JICA), the official agency responsible for the implementation of the technical cooperation programs of the Japanese government, conducted the feasibility study on the project during April 2002 to 2003. A JICA team of consultants paid a visit to the project site and is in a position to formulate the project design and a comprehensive resettlement plan for the project affected people.

After decades of conflict and economic isolation, Cambodia’s road infrastructure is in an extremely poor state and in some areas not usable. The state of the road network acts as the primary constraint to general economic recovery and further growth in agricultural production and investment from the emerging private sector in areas such as plantation agriculture. The government of the Kingdom of Cambodia is trying to attract international assistance towards its road network development. The National Road No. 1, linking the capital city Phnom Penh to its border at Bavet, is a route designated as Asian Highway No. A-1 as well as ASEAN Highway No. 1, and most of all road traffic between Phnom Penh and Ho Chi Minh passes on this route. The 160 km long NR-1 will also link the capital to its vast flood plain yielding rich agricultural products.

The expected road improvement and functions of NR-1 are as follows:

- To ensure road transport throughout the year by upgrading to a flood-free road to an all-weather standard.
- To secure traffic safety by providing separate lane for slow-moving vehicles such as motorcycles, and motorcycle trailer (moto-remorque)
- To stimulate economic and social development by connecting the major productive centers with urban centers to provide better market accessibility, allow more competition and stabilize the process as well as to increase job

opportunities for the poor.

-To strengthen linkages between production and consumption centers and between exploited resources and trading gateways by the improvement of the arterial road to an international standard. This will encourage the ongoing transition to market economy that has opportunities for reducing poverty.

The area of impact has high development potential in terms of domestic production/consumption as well as international / regional trade and investment. This area produces crops such as paddy, maize and vegetables as well as fisheries, livestock and poultry products that are mainly transported to Phnom Penh, the biggest consumption center. Once NR-1 is improved, it will stimulate the development potential within the impact area, and high vehicle traffic generation is anticipated.

DEFINITION OF TERMS RELATED

a) Affected Person(AP)

AP indicates any juridical person being as it may an individual, a household, a firm, or a private or public who, on a account of the execution of the Project, or any of its components or sub-projects or parts thereof would have their right, title or interest in any house, land (including residential, agricultural and grazing land) or any other fixed or movable assets acquired or possessed, in full or in part, permanently or temporarily, affected.

b) Compensation

These terms refer to all types of support system such as money, advice, services, training, etc. provided to eligible PAPs for lost access to land and for the removal of assets. Cash will be the most common type of compensation.

c) Contract Negotiation

After the measurement of affected assets of PAPs, compensation amount is proposed by WG (working group) and negotiated between WG and PAPs. At the same time any grievance of PAPs can be consulted with WG.

d) Corridor of Impact (COI)

COI is the word, used by ADB project predominantly, which indicates the area

impacted by road project or by the need to retain site for future use for construction or maintenance. This word is not used in this project.

e) Cut Off Date

This date is the date of simple survey was completed. It will establish that who are entitled to compensation under the NR-1 on **11 January 2004**. Any people moving on to the ROW after the cut-off date will not be considered as PAPs and will be evicted without compensation. If, however, any individual who was not surveyed during the simple survey or DMS can show proof that they were using land in the ROW before the cut –off date will be considered as a PAPs.

f) Detailed Measurement Survey (DMS)

This refer to a survey of assets owned by PAPs, by which compensation amount is determined.

g) Demarcation

This work is to put pegs on the ground indicating boundary line(s) of ROW or PRW.

h) External Monitoring (EM)

External monitoring is carried out by the impartial, independent organization in the purpose to monitor if resettlement activities is properly carried out in accordance with requirement. External monitor is directly hired by JICA.

i) Grievance Committee (GC)

The function of the Grievance Committee is to mediate the dispute, grievance raised by PAPs. The committee member are consisting of local authorities, central government officers and village elder, all of who are impartial and neutral position to the project.

j) Inter-ministerial Resettlement Committee (IRC)

Implementing body of resettlement activities with members consisting of MEF (ministry of economy and finance), MPWT (ministry of public works and transport), MLMUPC(ministry of land management, urban planning and construction), and so on.

k) Landless

This term refers to a condition that the PAP who does not have land, able to make living, other than inside PRW or money to purchase such land.

l) Project Affected Persons (PAPs)

In this Resettlement Brochure, ‘project affected persons’ are defined as householders of project affected households. Usually, PAP simply refer to any individual who is adversely affected, either temporarily or permanently, by the activities undertaken for the project.

m) Public Consultation (PC)

Public consultation is held for PAPs to consult with IRC/Working Group or Commune Authority in the purpose to discuss and solve their issue(s) whatever related to the project including compensation and/or resettlement.

n) Provisional Road Width (PRW)

PRW refers a certain width of road necessary for the present project, within which all the assets have to move outside. In this moment, PRWs are:

STA. km		Distance from centerline to PRW pegs:		Remark
from	to	Mekon River side	Colmatage side	
0.3	1.9	13	13	Most Congested Area
1.9	13.5	15-30	15-25	
13.5	14.0	Existing Road	Existing Road	Kokir Market
14.0	55	5-20	15-30	

o) Public Information Meeting (PIM)

Public information meetings will be held for notifying (1)the project outline to the public and PAPs among all,(2) DMS and (3) relocation site(s). PIM is one of the Stakeholder Meeting.

p) Relocation Site

Relocation site(s) are prepared for those who don't have alternative land affected by the project to resettlement.

q) Resettlement Action Plan (RAP)

Resettlement Action Plan (RAP) is a time-dependant action plan describing (1)

outline of project, (2) compensation policy to PAPs, (3) schedules for project and resettlement activities and (4) with a total budget for compensation. The objectives of RAP is to ensure the losses of APs incurred are redressed so that APs can share the project benefits and can be assisted to develop their social and economic potential. The RAP will need to be revised after DMS and also during the Design and Implementation, and Rehabilitation stages

r) Resettlement Activity

Resettlement Activities refer to any activity related to PAPs. This includes, among all, public meetings, simple survey, DMS, relocation site preparation, compensation disbursement, monitoring of rehabilitation of PAPs and grievance redressing mechanism.

s) Right OF Way (ROW)

ROW refers that a certain width of the road, railway or river from centerline is considered to belong to State and can be necessary for future development. Occupants within the ROW are assumed not legalized according to Prime Minister's Declaration in 1999.

t) Set Back

This word refers to, for PAPs who have to go out of the PRW, relocating their houses, by the distance several meters backward from present location to outside of PRW in the most cases. Set back is possible only when vacant lands are available behind or nearby their present houses.

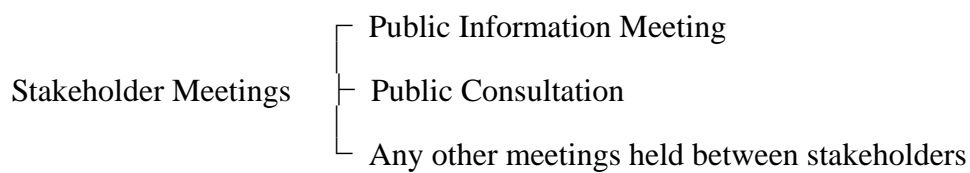
u) Simple Survey

As a milestone to proceed to next DMS stage, the simple survey is performed, by which it is clarified if the project related residents (residents within the ROW for example) are with or against the development project. In case 70 to 80% of interviewed express agreement, the project is considered to be welcomed and able to proceed to the next stage.

v) Stakeholder Meeting

Stakeholder is any person/organization in related to the project directly or indirectly. Therefore, stakeholder meeting refers meetings with any person or organization that are involved in the project including PAPs, NGO and/or implementing agency.

Public Information Meeting is one of mode of the Stakeholder Meetings.



w) Vulnerable Households

Vulnerable households refer to households, headed by either widow, aged, handicapped or poor (with income less than 10\$/month) householders, whose income are only or primary sources for those household.

COMPENSATION POLICY

Compensation policy is tabulated as bellow.

Table Compensation/Mitigation Policy for Assets inside ROW*

Type of Loss		Entitlement
General Notes		<p>✓ Compensation is made one time only. PAPs, although who were allowed to remain within the ROW for this project, will not get compensation again when they have to move outside ROW for the future project.</p>
Loss of Land	Residential land/commercial land	<p>✓ In principle, no cash compensation is made for land.</p> <p>✓ It is allowed to remain within ROW, by setting back outside PRW if the land is available.</p> <p>✓ In addition, following is entitled to landless PAP depending on remaining land area he/she occupies outside PRW as:</p> <p>(1) less than 30 m², alternative land in the relocation site is provided if he/she requests to move there</p> <p>(2) equal or more than 30 m² but less than 60 m² and this remaining area seems to be not enough to afford whole of his/her family, provision of alternative land in the relocation site may be considered if he/she requests.</p> <p>(3) equal or more than 60 m², no alternative land in relocation site is provided.</p> <p>✓ It is noted that if the landless PAPs, after provision of alternative land in relocation site, is found to have been not really landless, i.e., having other land to live and/or enough money to purchase such land, his/her land will be retrieved and punished.</p>
	Agricultural land	<p>✓ Standing crops is allowed to harvest only</p>

Type of Loss		Entitlement
Loss of Structure	Thatch/ timber/ brick houses, concrete/ timber fences, concrete/ timber bridges, water tank and well	<p>✓ In principle, compensation for structures is made in accordance with government price based on categories <u>for the portion within PRW only</u>.</p> <p>✓ Note that no compensation is provided for movable stalls and stands.</p> <p>✓ Exceptional compensation is granted for the portion of structure located outside PRW also, only when he/she has to resettle, either to relocation site or to other place due to remaining area outside PRW is:</p> <p>(1) less than 30 m² or</p> <p>(2) sometimes less than 60 m² with which area it seems to be not enough to afford whole of his/her family.</p>
Loss of Productive Trees	Fruit Trees, bamboo, rubber tree and so on	✓ Cash compensation based on the investment and productivity of the tree.
Loss of Commune Public/Assets	Meeting halls, market	✓ Cash compensation with government price or preparation of equivalent assets lost by the project
Allowances for residential houses affected	Those whose houses are affected (partially or totally demolished), by which their lives are disrupted	<p>✓ Disruption allowance \$40/household is provided as support for meal and/or income loss while reconstruction/repair of their residential houses.</p> <p>✓ No disruption allowance is made for the reconstruction of buildings other than of residential purpose.</p>
	Those whose houses are affected so that they have to moved to relocation site or other places outside ROW	✓ Resettlement allowance \$40/household is also provided in addition to disruption allowance above.
Special Allowance to Vulnerable Households	Households headed by widow /aged /handicapped /poor householders, whose incomes are primary sources for the whole household members.	✓ Cash allowance \$20/household to each household applicable is provided.

*Assets outside ROW is negotiated, not restricted to these policy

SCHEDULE

Following activities are scheduled as:

Activity	Date
Public Information Meeting for Compensation Policy	
Detailed Measurement Survey (DMS)	
Public Information Meeting for Relocation Site (if necessary)	(To Be Filled In)
Disbursement of Cash and Provision of Alternative Land in Relocation Site	
Relocation of PAPs	
Start of Construction	

EXTERNAL MONITORING

External Monitoring will be accompanied to above activities by independent and neutral organization, directly hired by Japan side, to monitor and witness the activities' soundness and properness. If any unfavorable issues are noted or PAPs raise complaints, the external monitor reports to JICA and recommendation may be presented to IRC if necessary.

GREIVANCE COMMITTEE

Grievance Committee (GC) is set up to mediate, to redress and to solve disputes and complaints between PAPs and IRC. PAPs can raise their grievance directly to GC, or indirectly through local government to GC as shown in the flow chart attached below.

Contact addresses are:

Contact to:	Address	Telephone No
IRC Working Group		
Luek Dau District Office		(To Be Filled In)
Kien Svay District Office		
Mien Chay District Office		
Grievance Committee:		

It is noted that no fee for submission of grievance is charged.

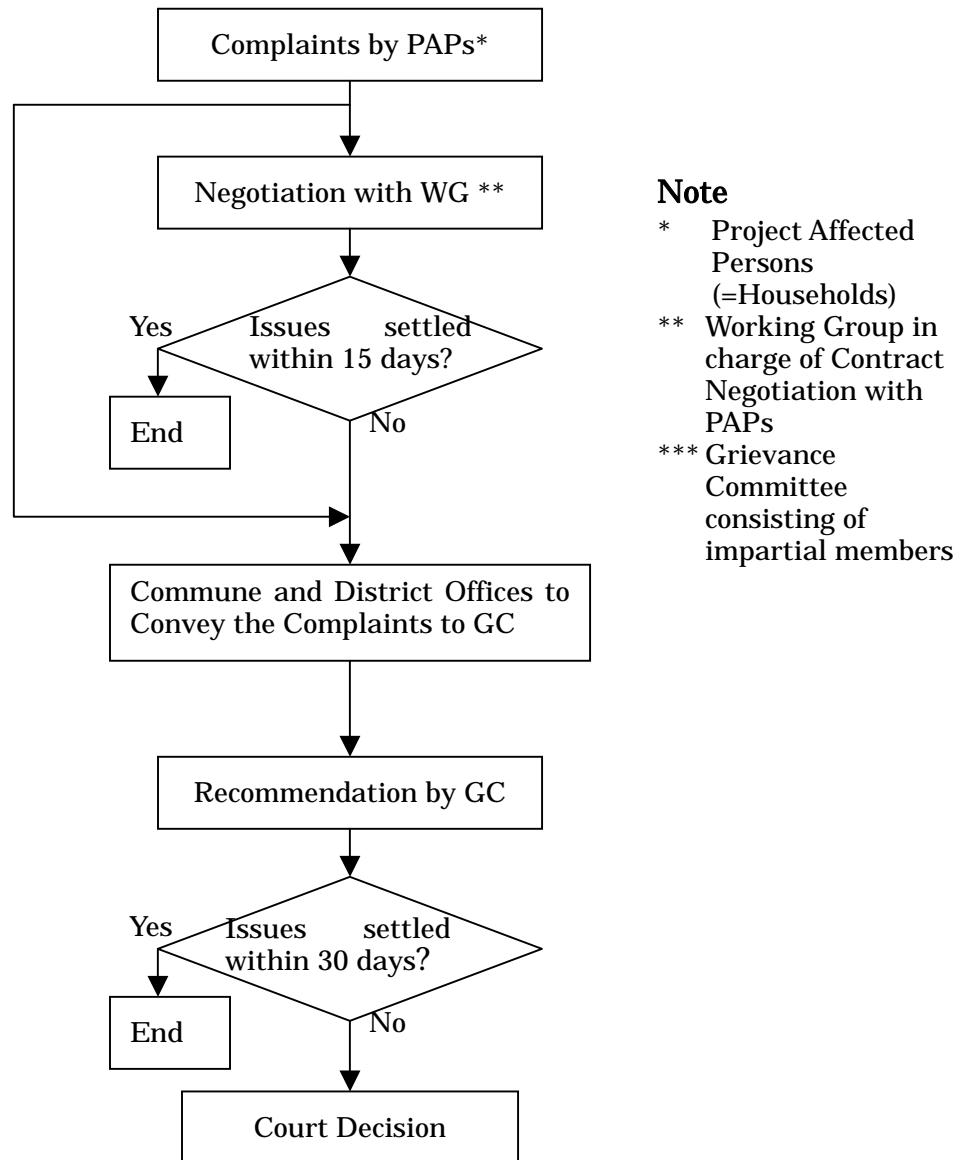


Figure **Flows of Grievance Redressing Process**

FREQUENTLY ASKED QUESTIONS

Q-1 I have been living along NR. 1 since 1990 or before the sub-degree becomes effective and I planted 10 mango trees already in 1992. I have 100m²-land in the PRW. Ten mango trees earn 1500US\$ per year. Can I get compensation for the land? How much compensation can I get for mango trees?

A-1 Your house have to set back outside PRW and, for that, no cash compensation will be made for land since it has been and is governmental land. However if you have no enough land to set back, no land for relocation outside ROW or no money to purchase land, government will provide alternative land in relocation site. As for trees, cash compensation will be made for each productive tree in accordance with government price predetermined. In case of Mango tree, 25 to 30\$ can be paid for each, depending on your investment and productivity of the tree.

Q-2 When and how were the unit prices decided? What kinds of investigation were conducted at the time?

A-2 On the basis of market prices investigation every year.

Q-3 I don't have land to move back. Must I make agreement before checking of relocation place? If I need to make agreement before checking relocation site, can I cancel the agreement when I cannot agree with the relocation site?

A-3 In this moment, we cannot show you the relocation site yet. Of course you can cancel the agreement if you cannot agree with the relocation site after you visit. However please note that the land in relocation site is provided to you, together with land title, free of charge and it does not seem to be that disadvantageous for you.

Q-4 Please explain the detail of additional payment. Kinds and condition for payment.

A-4 Please refer to the table of 'Compensation Policy' in this booklet. In the table, 'disruption allowance and resettlement allowance may be paid depending on the conditions how your houses are affected. Vulnerable allowances also are provided if you fall in one of their categories of 'Vulnerable Household' as specified at the section 'Definition of Terms'.

Q-5 There is some space behind my house although it is outside ROW. The land is not mine, but there is no structure and no other properties in the land. Will the RGC provide the land for me for set back?

A-5 Outside ROW is not a government land and government cannot provide that land behind your house to you. However, if you have no land to relocate, alternative land is provided in accordance with our compensation policy.

Q-6 What will happen or how will the RGC deal with me if I do not agree to move because I cannot satisfy with compensation.

A-6 You have the right to raise your grievance to Grievance Committee and, if not satisfied, court. You will never be treated unfairly by appealing your grievance.

(Back cover page)

Prepared by Inter-Ministerial Resettlement Committee (IRC)

Address:

Telephone