
I. General Introduction

A. Project Background

Approval for the provision of technical assistance (TA) for Capacity Building for Resettlement Risk Management was granted in December 2002. Regional Technical Assistance (RETA) 6091 commenced in the fourth quarter of 2004, with Cambodia, the People's Republic of China (PRC), and India as participating countries. The overall goal of the RETA is to develop instruments that will help minimize poverty risks for people dispossessed of assets, income, and other livelihood resources. Specifically, RETA activities in each participating country aim to generate knowledge on (i) the identification of impoverishment risks associated with displacement and dispossession, and (ii) practical suggestions on how to address those risks through development interventions and assistance. A major output of the RETA is a country report that sets out issues and options for resettlement risk management country-wide and in projects with significant or sensitive resettlement, including recommendations to the Asian Development Bank (ADB) on tackling these issues. In this Country Report, two ADB-assisted infrastructure projects involving involuntary resettlement provided the case studies. The resettlement audit of the Phnom Penh to Ho Chi Minh City Highway Improvement Project (Loan 1659-CAM) served as the main case study.¹ The initial findings of the ongoing community needs assessment in the two adjoining relocation sites in Kab Srov (Loan 1824-CAM: Emergency Flood Rehabilitation Project, Kab Srov Dike Subproject) will augment the insights and lessons learned from the resettlement audit of Loan 1659-CAM.

Other outputs of the RETA that should be consulted alongside this report include a resource

data bank on current laws and policies relevant to involuntary resettlement, and a resettlement handbook for road projects.

B. Objectives

The country report describes and analyzes the resettlement of project-affected persons (APs) during the implementation of the Phnom Penh to Ho Chi Minh City Highway Improvement Project (also referred to in this paper as Highway 1 Project). The report draws a number of lessons related to livelihoods and impoverishment risks, asset losses, access to resources, compensation, and other income restoration assistance. These lessons would be applicable to future infrastructure projects that have involuntary resettlement. Moreover, the audit of the Highway 1 Project has made it possible, in the short term, for ADB to formulate a list of recommendations that have been adopted by the Government with the goal of addressing outstanding resettlement issues.

The country report is based mainly on the case study of the Highway 1 Project for National Road (NR1). Additional lessons were also learned from the experience of the Kab Srov Dike Subproject. However, the lack of human and financial resources significantly delayed the community needs assessment, which is a requisite in the identification and planning of an appropriate rehabilitation program for resettlers at the Kab Srov relocation sites.

C. Study Design and Scope

The purpose of the study was to identify mitigation measures that would help reduce impoverishment risks affecting resettled populations. In this particular study, however, special attention was focused on the poor and other vulnerable groups since, experience shows, that for them, the restoration of livelihoods is

¹ A resettlement audit of Loan 1659-CAM was conducted starting in November 2004 by the Infrastructure Division of the Mekong Department, Asian Development Bank (ADB), with funding support from Regional Technical Assistance (RETA) 6091.

particularly difficult and new forms of impoverishment are frequently an outcome of involuntary resettlement. Generally, better-off households are able to draw on a wider range of livelihood resources and social relations that help rehabilitation.

1. Scope of Work

Preparation of this country report involved the following activities:

- (i) Conducting gender-sensitive consultations with key stakeholders in government, development organizations, nongovernment organizations (NGOs), community-based organizations (CBOs), private sector agencies, and project APs;
- (ii) Analyzing the existing database on involuntary resettlement and rehabilitation in Highway 1 Project to identify risks associated with dispossession, displacement, and the lack of access to sources of income and livelihood;
- (iii) Conducting household-level interviews with APs; and
- (iv) Compiling legal documents on land acquisition and involuntary resettlement; profiles of public and private sector agencies and civil society groups; and creating a Resettlement Resource Data bank of legal documents, researchers, civil society representatives, and government agency personnel with expertise in resettlement.

2. Data Gathering

Data gathering methods involved a combination of reviewing available government records, documents, and policy guidelines pertaining to resettlement issues; conducting a resettlement audit of Highway 1 Project; interviewing concerned personnel of the Ministry of Economy and Finance (MEF), Ministry of Public Works and Transport (MPWT), the NGO Forum on Cambodia, and Legal Aid Cambodia (LAC); and holding focused group discussions (FGDs) with APs in selected communities.

FGDs were organized through the NGO Forum on Cambodia, which has a network of community-based

NGOs.² Participants to FGDs were purposely selected in communities where there is a large number of APs and based on the availability of affected people. As it turned out, while a number of the participants had unpaid claims, they cut across the various types of APs in terms of assets lost, severity of impacts, and standard of living. FGDs revolved around the following concerns: level of information about the Project, public information, consultation and participation, affected assets and valuation, awareness of resettlement policy and entitlements, grievance redress mechanism, level of satisfaction, impacts on the lives of the people, and suggestions of the people. The sessions for female and male APs were held separately to provide the women greater latitude to speak out their minds and participate in the discussion.³

3. Review of Literature

Materials reviewed for this study included government laws, policies, and guidelines in relation to resettlement and rehabilitation; resettlement plans (RPs); research papers; and policy and operational guidelines of multilateral and bilateral Development Partner agencies, such as ADB's *Policy on Involuntary Resettlement*, and its *Handbook on Resettlement: A Guide to Good Practice*; the World Bank's Operational Manual BP 4.12 and OP 4.12; and the Guideline for Environment and Social Considerations of the Japan Bank for International Cooperation (JBIC).

Four relevant laws were reviewed in detail: the Cambodian Constitution, the Land Law 2001, Forestry Law, and Law on Environmental Protection and Natural Resource Management. The review was carried out to provide better understanding of the rights of an entity over immovable properties, and the right to fair compensation and livelihood restoration, if affected by development projects. The review also looked for legal provisions that particularly address the situation of the poor and other vulnerable groups when affected by development projects.

Additionally, a number of government policies and procedures pertaining to involuntary resettlement were reviewed. These were *Sechkdey Prakas* (Order) No. 6, dated 27 September 1999; Notification No. 43, dated 6 September 2001; Ministry of Economy

² NGO Forum on Cambodia also has established a resettlement working group, which has received some training from ADB.

³ In focused group discussions (FGDs) conducted for affected persons (APs), there were 10 female and 10 male participants from Chi Pho Commune, 21 female and 10 male participants from Preack Khsay Kha, and 31 female and 15 male participants from Stoeung Slot.

and Finance (MEF) *Sechkdey Prakas* No. 961, dated 6 April 2000; Sub-Decree No. 19 ANK on Social Land Concession, dated 19 March 2003; Sub-Decree No. 62 ANK on Organization and Functioning of the Ministry of Land Management, Urban Planning, and Construction, dated 20 July 1999; Policy Paper on Social Land Concession, issued on 19 March 2002; and Statement on Land Policy, issued on 6 September 2002. Other government working papers, such as the resettlement policy framework for provincial and rural infrastructure projects and the draft National Resettlement Policy for Cambodia, were also reviewed.

RPs for the following road projects were also reviewed: National Road (NR) 1, prepared in 1997 by Scott Wilson Kirkpatrick and Bureau Central d'Etudes pour les Equipements d'Outre-Mer (BCEOM); NR 5, 6, and 7, prepared in June 2000 by Snowy Mountains Engineering Corporation (SMEC) International; and NR 51, prepared in December 2002 by Green Group. Also reviewed were the abbreviated RP for the Provincial Town Improvement Project (PTIP), prepared in 2003 by SAWAC Cambodia; the Poverty and Social Impact Assessment of Planned Social Land Concessions Program, prepared in March 2004; the Social Impact Assessment of Social Land Concessions in Cambodia, prepared by Cambodia Development Resource Institute (CDRI) in 2002; and the 14 February 2002 report of the NGO Forum on Cambodia on the complaints of APs in the Highway 1 Project, and which was submitted to ADB and to the Government of Cambodia.

4. Case Studies

Two case studies were conducted and the lessons learned from these two studies have been incorporated in this Country Report. The need for a resettlement audit of Highway 1 Project was suggested by ADB to the Cambodian Government in 2002, but it could not be

carried out until the second half of 2004 because of the Government's initial reluctance and because of funding problems. When the Government finally agreed, it was about the same time that activities for RETA 6091 in Cambodia were to commence. RETA 6091 opted to cofinance with the Infrastructure Division, Mekong Department of ADB the resettlement audit of Highway 1 Project because being the first public infrastructure project that applied ADB's Involuntary Resettlement Policy, it promised to provide a wealth of insights and lessons on involuntary resettlement and impoverishment risks. Broadly, the resettlement audit of Highway 1 aimed to look at the adverse social impacts of the project, determine what APs were entitled to receive for their losses, and what the Government provided for their losses for the purpose of identifying any unsettled resettlement issues for appropriate action by the Government to fill the gaps to bring implementation into compliance with the Project's RP.

Another case study is the Kab Srov Dike Project. Only rapid assessment and socioeconomic surveys were conducted. Therefore, information about this project is very limited compared to that of resettlement audit for Highway 1 Project.

D. Contents of the Report

This report used Michael Cernea's Risks and Reconstruction Model as a guide to identify the major impoverishment risks experienced by APs in the implementation of the Highway 1 Project. Chapter 2 presents national laws and policies on land acquisition and compensation. Chapter 3 presents international resettlement policy standards and gaps as compared to national laws and policies. Chapter 4 highlights findings and draws lessons from the two case studies. Chapter 5 draws conclusions and lays out practical recommendations for future action.