
Acknowledgments

The publications under Regional Technical Assistance (RETA 6091) are based on research and field work conducted by several specialists under the guidance of Ruwani Jayewardene, Senior Social Development Specialist (Resettlement) of the Asian Development Bank's (ADB) Environment and Social Safeguards Division (RSES). Thanks are due to Marla Huddleston, Scott Ferguson, and Jayantha Perera, resettlement specialists from ADB's regional departments who implemented the RETA at the country level in Cambodia, the People's Republic of China (PRC), and India.

Sam Pillai, Jocelyn Erlinda Munsayac, and Aldwin Thadeus Sutarez provided invaluable technical editing, proofreading, and coordination to prepare these publications for printing.

Special thanks go to our counterparts in the governments of Cambodia, the PRC, and India; the respective country directors of ADB; and all participants at our national and regional workshops.

Sincere thanks are also extended to Dr. Walter Kalin, Special Representative of the United Nations Secretary General on the Human Rights of Internally Displaced Persons, who kindly gave the keynote address at the Regional Workshop held in Manila; and to the Brookings Institute for their generous support.

These documents would not have been finalized without the invaluable contribution of Emilie Ballares, Ma. Teresita Olofernes, and Mary Rose Favis-Aquino.

Abbreviations

ADB	Asian Development Bank
AP	affected person
BOT	build–operate–transfer
CAM	Cambodia
CBO	community-based organization
COI	corridor of impact
CRIP	Cambodia Resettlement Implementation Plan
DMS	detailed measurement survey
EA	executing agency
EMA	external monitoring agency
FGD	focused group discussion
ha	hectare
IRC	Inter-ministerial Resettlement Committee
IRC–WG	Inter-ministerial Resettlement Committee Working Group
IWTC	Infrastructure West Transport and Communications
JBIC	Japan Bank for International Cooperation
JICA	Japan International Cooperation Agency
km	kilometer
KR	Khmer riel
LAMDP	Land Administration, Management, and Distribution Program
m	meter
MEF	Ministry of Economy and Finance
MKID	Mekong Infrastructure Division
MLMUPC	Ministry of Land Management, Urban Planning and Construction
MOWRAM	Ministry of Water Resources and Meteorology
MPP	Municipality of Phnom Penh
MPWT	Ministry of Public Works and Transportation
NGO	nongovernment organization
NR	national road
OP	Operational Policy
PDEF	Provincial Department of Economy and Finance
PDPWT	Provincial Department of Public Works and Transport
PIU	Project Implementation Unit
PMU	Project Management Unit
PRS	Provincial Resettlement Sub-Committee
PRSC–WG	Provincial Resettlement Sub-Committee Working Group
PPTA	Project Preparation Technical Assistance
RRAP	Resettlement and Rehabilitation Action Plan
RP	resettlement plan
RETA	regional technical assistance

RGC	Royal Government of Cambodia
ROW	right-of-way
RU	Resettlement Unit
RU-IRC	Resettlement Unit-IRC
TA	technical assistance

Currency Equivalent

US\$1.00 = 4,000 Khmer riels

Contents

I.	GENERAL INTRODUCTION	1
	A. Project Background	1
	B. Objectives	1
	C. Study Design and Scope	1
	D. Contents of the Report	3
II.	NATIONAL LAWS AND POLICIES ON LAND ACQUISITION AND COMPENSATION	4
	A. Introduction	4
	B. Constitution	4
	C. Land Law	5
	D. <i>Sechkdey Prakas</i> No. 6 BRK	6
	E. MEF <i>Prakas</i> No. 961	7
	F. <i>Sechkdey Choundamnoeng</i> (Notification) No. 43 SCFIN KBCH	7
	G. Sub-Decree No. 19 ANK/BK	7
	H. Sub-Decree No. 62 ANK	8
	I. Decision No. 13 and <i>Prakas</i> No. 098	8
III.	RESETTLEMENT POLICY GAPS	9
	A. Introduction	9
	B. Policies on Involuntary Resettlement of International Development Partners	9
	C. Gaps between Domestic Laws/Policies and International Practices	11
	D. Stopgap Measures	11
IV.	LESSONS LEARNED FROM CASE STUDIES	13
	A. Compliance with Resettlement Policy	13
	B. Compensation and Entitlement	13
	C. Inventory of Affected Assets	14
	D. Asset Valuation	14
	E. Income Restoration and Economic Rehabilitation	15
	F. Gender and Vulnerable Groups	15
	G. Public Participation and Consultation	15
	H. Grievance Redress	16
	I. Monitoring and Evaluation	16
	J. Impoverishment Risks	16
V.	CONCLUSIONS AND RECOMMENDATIONS	22
	A. Policies and Regulatory Framework	22
	B. Institutional Arrangements	23
	C. Capacity Building and Training	24
	D. Legalizing Asset Valuation System	24

E. Strengthening Public Participation and Consultation	25
F. Mitigating Risks of Vulnerable Affected Persons	25
G. Monitoring and Evaluation	25
H. Grievance Redress Mechanism	26
I. Impoverishment Risks and Reconstruction	27
REFERENCES	28
BOXES	
1. ADB's Involuntary Resettlement Policy	10
2. Professor Michael Cernea's Risks and Reconstruction Model	17
TABLE	
1. ADB's Resettlement Policy and It's Application in Cambodia Resettlement Work	12

Executive Summary

The overall goal of this Regional Technical Assistance (RETA) 6091 is to develop instruments that will help minimize poverty risks for people dispossessed of assets, income, and other livelihood resources due to involuntary resettlement. Specifically, the RETA aims 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. This country report sets out issues and options for resettlement risk management in Cambodia in projects with significant or sensitive resettlement, including recommendations to the Asian Development Bank (ADB) on tackling these issues.

Two ADB-assisted infrastructure projects that had 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. The initial findings of the community needs assessment in the two adjoining relocation sites in Kab Srov (Loan 1824-CAM: Emergency Flood Relief Project, Kab Srov Dike Subproject) augment the insights and lessons learned from the resettlement audit of Loan 1659-CAM.

The analytical framework used in the country report is Michael Cernea's Risks and Reconstruction Model (RRM) and its concept of "decapitalization" (i.e., people lose natural capital, human-made capital, human capital, and social capital) due to involuntary resettlement especially in the implementation of infrastructure projects in the public and private sectors. Consequently, affected people, most of whom are already poor, are at risk of further impoverishment in the form of landlessness, joblessness, homelessness, economic marginalization, increased morbidity and mortality, food insecurity, loss of access to common property, and disintegration of community and social ties and organizations.

This country report describes and analyzes the resettlement of affected persons (APs) during the implementation of Loan 1659-CAM, also referred to in this report as Highway 1 Project. The report draws a number of lessons revolving around Cernea's

"decapitalization" risks that may be applicable to future infrastructure projects. Moreover, the audit of Highway 1 Project has made it possible to formulate a list of recommendations that have been adopted by the Government of Cambodia to address outstanding resettlement issues on that project.

Highlights of the results of the case study of Highway 1 Project are (i) the loan effectiveness of the Project was delayed until October 1999 to ensure the approval of the detailed Cambodia Resettlement Implementation Plan (CRIP) acceptable to ADB; (ii) resettlement work and civil works were separated, with the Inter-ministerial Resettlement Committee (IRC) assuming exclusive role of planning, implementing, and monitoring resettlement, confining the road project's Executing Agency (EA) to civil works; (iii) the provisions of CRIP were not consistently followed; depreciation and the value of salvaged materials were deducted from the compensation given for affected structures; affected trees and crops in the right-of-way (ROW) were not paid for; income loss arising from business disruption during resettlement was ignored contrary to the CRIP; landless APs losing residential and/or productive land were not permitted to relocate within the remaining ROW because of the recently issued *Sechkdey Prakas* No. 6,¹ were left with nowhere to move and were only provided with replacement lots after recommendations from resettlement audit; and grievance redress mechanisms were not set up; (iv) with IRC in possession and control of all data and records on resettlement in Highway 1, it was not possible to assess the actual magnitude of social displacement; and (v) the Government has agreed to implement the recommendations resulting from the resettlement audit to bring resettlement into compliance with ADB's Policy on Involuntary Resettlement by (a) providing remaining compensation for APs' structures that were deducted for salvage and depreciation, (b) providing resettlement site at Stoeung Slot to landless APs, and (c) the Government allows Green Gold, a nongovernment organization (NGO), to collect outstanding grievances of APs.

¹ *Sechkdey Prakas* No.6 (27 September 1999) is explained in Chapter II, D.

With regard to the Kab Srov Dike Subproject, a total of 390 households in 2001 were provided individual plots in the three adjoining relocation sites of Anlong Ka Ngan 1, Anlong Ka Ngan 2, and Kab Srov. There were 261 households relocated in Anlong Ka Ngan 1, 43 households in Anlong Ka Ngan 2, and 86 households in Kab Srov. At present, only 135 households are living permanently in the relocation sites, while 26 households are semipermanent, presumably depending on the availability of income opportunities in Kab Srov. There are 122 vacant plots, some of which have been sold. Additionally, there are 45 nonoriginal settlers, while the rest are new lot owners. Also, 35 plots in Anlong Ka Ngan 2 are vacant and unused. The results of the survey show that slightly more than 64% of the 178 households covered in the study earned a monthly income ranging from \$10 to \$50 in 2005.

The findings of the study lead to a number of questions that must be answered in finding an appropriate and sustainable livelihood restoration program for APs at Kab Srov. These questions include (i) why did APs sell or abandon their plots? (ii) What are the livelihood activities of the 114 AP households whose monthly income is less than \$50? (iii) What skills and resources do APs have, and what are the opportunities available to them?

These questions remain unanswered. However, while an earlier survey conducted from 29 July to 7 August 2005 by the Municipality of Phnom Penh (MPP) at the relocation sites in Anlong Ka Ngan and Kab Srov identified 40 AP households as living below the national poverty line (i.e., monthly income of \$20 or less), a repeat survey conducted by the Resettlement Unit of IRC (RU-IRC) and MPP in early December 2005 reportedly found only 21 AP households living below the national poverty line. During consultation with the 21 APs about their preferences for livelihood training or cash instead of a program, those APs chose to receive a one-time cash assistance of \$200 in lieu of a short-term, livelihood-related training. All risks identified by the resettlement audit (discussed below) have been reduced as a result of the Government implementing the recommendations from the case study. Moreover, during a subsequent ADB Resettlement Review Mission, consensus was reached with APs, the Resettlement Specialist from ADB, and representatives from MPP, the Ministry of Water Resources and Meteorology (MOWRAM), and RU-IRC that the 21 AP households would be provided (i) health book that would help them have better access to government health services; (ii) access to the municipal government's credit program—the Urban Poverty Development Fund (UPDF)—when putting up

small businesses; and (iii) access to potable water.

More importantly, with lessons learned from past experience of the Highway 1 Project and Kab Srov Dike Subproject and with improved compliance with ADB's Involuntary Resettlement Policy, the resettlement planning and implementation for ongoing projects has improved in terms of compensation rates, relocation sites for the landless, income restoration programs, and grievance procedures, etc. The ADB review mission from 19 to 27 April 2006 found that the implementation of the recommendations of the Highway 1 audit and Kab Srov Dike review have been carried out by the IRC working group in a transparent manner. The interviewed APs expressed their satisfaction with regard to consultation and compensation related to the audit and review. APs are also now aware of the grievance process.

Although the resettlement planning and implementation on other ADB-financed projects have improved, the findings and recommendations from the two case studies made it possible to formulate a list of recommendations for consideration by the Government. Those recommendations are summarized below:

- (i) The Government should adopt the proposed National Resettlement Policy, to be codified later into a Sub-Decree. Since the passage of the Resettlement Sub-Decree is expected to take time, the Government should consider adopting in the interim the proposed Resettlement Handbook prepared under this RETA.
- (ii) The roles and responsibilities of government bodies involved in various capacities in projects with involuntary resettlement must be clarified. Appropriate training in resettlement should be given to the personnel in these agencies.
- (iii) The external monitoring agency (EMA) should be independent of the Government. For projects financed by a loan, the EMA could be contracted by the Government under counterpart funds and for projects financed by a grant. The EMA, with Government approval, must be contracted out of project funds and supported by the development partner agency.
- (iv) Project authorities should be more transparent in handling resettlement and should provide APs adequate information about the project and their rights under the resettlement policy.
- (v) Grievance redress mechanisms must be organized at the grassroots level, with the participation of NGOs and APs.