

**RESETTLEMENT FRAMEWORK**

**Supplementary Appendix to the  
Report and Recommendation of the President  
to the Board of Directors**

**on the**

**AGRICULTURE SECTOR DEVELOPMENT PROGRAM**

**in**

**CAMBODIA**

**Ministry of Agriculture, Forestry and Fisheries**

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## INTRODUCTION

1. The proposed Agriculture Sector Development Program (ASDP) is being considered by the Asian Development Bank (ADB) for ADB loan financing in 2003 from the Special Funds resources. ASDP is a combination of a policy-based program loan (\$25 million) and a project investment loan (\$4.7 million), and aims at promoting a sustainable growth of the market-based agriculture sector in Cambodia, thereby contributing to the country's economic growth and poverty reduction. It will facilitate agricultural commercialization and diversification in line with the Second Socioeconomic Development Plan (SEDPII) of the Government and will also ensure increased participation of the poor and women in agricultural production, marketing, and post-production system.

2. Within the overall program objectives of ASDP, the program loan (the program) will facilitate policy and institutional reform measures to ensure a favorable environment for market-based agricultural growth in the country. It will (i) provide better access to productive land, water, improved seeds, and other agricultural inputs of good quality; (ii) improve efficiency of rubber production, and ensure no direct state interventions in the agricultural input and output markets; and (iii) facilitate agricultural commercialization by strengthening and rationalizing agricultural institutions, and providing access to improved support services.

3. In March 1999, the Government initiated the divestment of the state-owned rubber estates (SOREs) by converting them into autonomous public enterprises. This was based on the Government's divestment plan for the SOREs prepared in September 1998. Under ASDP, the Government wishes to further advance the divestment process of the SOREs with support from ADB. For this purpose, the Government established a national divestment committee in May 2003 and has initiated the recruitment of private external auditors to review the estates' internal financial control systems and obtain reliable information on the financial and asset conditions of the SOREs. Based on the information obtained from auditing and with ADB's technical assistance, the Government will update and revise the divestment plan in detail and complete the process during the period of the program. Several scenarios can be considered for the divestment process, including downsizing or closure of the SOREs. It is unlikely that the closure or downsizing of any particular estate will in itself force rubber smallholders out of business since the Government has already shown its willingness to hand over the areas where estate workers or encroaching smallholders are planting and harvesting rubber to these workers and smallholders. However, there is a possibility, though less likely, that the closure or downsizing of an estate lead to the establishment of other activities displacing either or both rubber and non-rubber smallholders.

4. During the last few years, the Government has also initiated its divestment plans for other state-owned enterprises in the agriculture sector by making them financially autonomous. The two public enterprises (the Agricultural Inputs Company –AIC- and the Kampuchea Fishery Import and Export Company –KAMFIMEX-) have not been successfully adapted to market conditions. They have created uncertainty in the agricultural input and output markets, and used scarce public resources for redundant operations. In this context, the Government will also facilitate the divestment process of these enterprises under the program. The divestment of the enterprises will be done with the Government's full commitment to the market-based agriculture sector development, and will further promote the development of the private sector in the agricultural input and output markets.

5. Following the ADB's policy on involuntary resettlement, this resettlement policy framework has been prepared for the divestment of the SOREs, AIC and KAMFIMEX proposed

under the program to address adverse social impacts that may result due to involuntary acquisition of assets and changes in land use and includes provision for compensation and rehabilitation assistance.

## 1. DEFINITIONS

6. **Compensation** means payment in cash or in kind for an asset to be acquired or affected by the divestment of the state-owned public enterprises at replacement cost.

7. **Cut-off Date** is the date prior to which the occupation or use of the area of the SOREs, AIC and KAMFIMEX makes residents/users of the area eligible to be categorized as affected persons. The cut-off date coincides with the date of the census of affected persons within the area boundaries of the SOREs, AIC and KAMFIMEX. Persons not covered in the census, because they were not residing, having assets, or deriving an income from the concerned area, are not eligible for compensation and other entitlements.

8. **Eligible landholders** are affected persons who (a) hold title to land; or (b) do not hold title but whose possession of land can be legalized with a title pursuant to the Land Law of Cambodia.

9. **Entitlement** means a range of measures comprising compensation, income restoration support, transfer assistance, income substitution, and relocation support, which are due to affected people, depending on the nature of their losses, to restore their economic and social base.

10. **Program Authorities** refer to both the Ministry of Agriculture, Forestry and Fisheries (MAFF), and the Ministry of Economy and Finance (MEF), which are designated as the program executing agencies for the program having overall responsibilities for program implementation through the ASDP Program Secretariat established by the Government.

11. **Program Affected Persons (PAPs)** include any person or persons, households, a firm, or private or public institution who, in the context of acquisition of assets and change in land usage, as of the cut-off date, on account of the execution of the divestment process, or any of its subcomponents or part, would have their:

- Standard of living adversely affected;
- Right, title, or interest in any house, land (including residential, commercial, agricultural and grazing land) or any other moveable or fixed assets acquired or possessed, in full or in part, permanently or temporarily adversely affected; or
- Business, occupation, places of work or residence or habitat adversely affected, with or without displacement.

12. PAP includes persons and affected households, and consists of all members of a household residing under one roof and operating as a single economic unit, who are adversely affected by the divestment process of the SOREs, AIC and KAMFIMEX or any of the components of the process. For resettlement purposes, affected persons will be considered as members of affected households.

13. **Rehabilitation** means assistance provided to PAPs seriously affected due to the loss of productive assets, incomes, employment or sources of living, to supplement payment of compensation for acquired assets, in order to achieve, at a minimum, full restoration of living standards and quality of life.

14. **Replacement cost.** With regard to land and structures, **replacement cost** is defined as follows: For agricultural land, it is the pre-program or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes. For land in urban areas, it is the pre-displacement market value of land of equal size and use, with similar or improved public infrastructure facilities and services and located in the vicinity of the affected land, plus the cost of any registration and transfer taxes. For houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and contractors' fees, plus the cost of any registration and transfer taxes. In determining the replacement cost, depreciation of the asset and the value of salvage materials are not taken into account, nor is the value of benefits to be derived from the program deducted from the valuation of an affected asset.

15. **Resettlement** means all measures taken to mitigate any and all adverse impacts of the divestment process proposed under the program on PAP property and/or livelihoods, including compensation, relocation (where relevant) and rehabilitation as needed.

16. **Vulnerable group** are distinct groups of people who might suffer disproportionately or face the risk of being marginalized from the effects of resettlement and specifically include: (i) female headed households with dependents, (ii) disabled household heads, (iii) households falling under the generally accepted indicator for poverty, (iv) elderly households with no means of support and landlessness, and (v) indigenous/ethnic minorities.

## 2. CAMBODIAN LEGAL PROVISIONS

17. The Constitution of Cambodia provides for land acquisition for public purposes, and states that nobody shall be forced to transfer his or her ownership, if forcing is necessary in public interest and if no proper and just indemnity has been paid to owner. Regarding compensation, the Constitution states that the right to confiscate (land) possession from any person shall be exercised only in the public interest as provided for under law and shall require fair and just compensation.

18. Some protection for vulnerable groups is also specified in the Constitution in Article 73: "The State shall give full consideration to children and mothers. The State shall establish nurseries, and help support women and children who have inadequate support" and Article 74: "The State shall assist the disabled and the families of combatants who sacrificed their lives for the nation".

19. The new 2001 Land Law provides that no person shall be "deprived of their ownership unless this action is for the public interest consistent with formalities and procedures provided by laws and regulations, and after just and fair compensation". There are currently no such "laws and regulations" and there continues to be an absence of definition for "just compensation". In addition, a person holding illegally possessed property cannot claim compensation, even if there is a title. Further, any "illegal and intentional or deceitful acquisition of the public domain of the State or public legal entity shall be punished" with a fine and/or imprisonment. This penalty can be doubled if the landholder is held to damage or delay work in favor of the common interest, especially the possession of land necessarily reserved for maintaining roads. Under the new Land Law, those who have occupied a right of way or public

properties may not be entitled to any compensation or social support, regardless of their being an affected person or a member of a vulnerable group.

20. Although individual rights to ownership and compensation are protected by present laws, there are no clearly defined specific provisions or a mechanism for land acquisition by the State through expropriation. The expropriation of immovable properties is based on decisions of government staff and implementation in an ad-hoc manner varying from one project to another.

21. Traditional private land ownership was abolished during the Khmer Rouge period (1975–1979) and was not re-introduced until the late 1980s. Determining ownership and obtaining documentation to prove ownership is a cumbersome and time consuming process which many landholders have not utilized. The boundaries of public land still remain unclearly defined and it can be difficult to distinguish between public and private land. This blurring between public and private land is particularly acute with regard to rights of ways for roads, irrigation channels and the like. There was no specific law or regulation on rights of way until 1999 when a Government of Cambodia Decree identified a 50-meter right of way for some specified national roads and 60 meters for other national roads. The width of other rights of way varies depending on the type of road. No efforts were made to publicize the claimed rights of way and no physical demarcations have been made for these rights of way.

22. Presently, the Government's Inter-ministerial Resettlement Committee (IRC) is charged with determining entitlements, valuation of affected assets and in fixing of compensation rates. Current legal provisions governing land acquisition, compensation and resettlement in Cambodia do not meet the objectives and principles of the ADB's Operations Manual (OM) Section 50 (Bank Policy/Operational Procedures) on Involuntary Resettlement.

23. This policy framework conforms to the objectives and principles of ADB's OM Section 50. In the case of any inconsistency between the provisions of the Cambodian legal framework and this policy framework, the Cambodian law shall be waived to the extent necessary.

### **3. OBJECTIVES AND PRINCIPLES OF THE POLICY**

#### **3.1 Overall Objectives**

24. This policy framework seeks to address the inadequacy of the existing legal provisions discussed in the previous section. This policy is based on the philosophy that ASDP must serve the needs of society and ensure that PAPs are at least as well off due to the divestment of public enterprises proposed under the program. This can be ensured through the following basic objectives:

- (i) Avoid involuntary resettlement where feasible and minimize resettlement where population displacement is unavoidable,
- (ii) Ensure that displaced people receive compensation, assistance and rehabilitation so that they would be at least as well off as they would have been in the absence of the program,
- (iii) PAPs will benefit from the program,
- (iv) The key stakeholders involved in the program (including PAPs) are consulted and given the opportunity to participate, as practicable, in the design, implementation, and operation of the program,
- (v) Appropriate assistance and compensation, in cash or in kind, provided to adversely affected people, including indigenous groups, ethnic minorities and

pastoralists who may have usage or customary rights to the land or other resources taken for the program.

25. Three important elements of involuntary resettlement are: (i) compensation for loss of assets, loss of livelihood and income, (ii) assistance for relocation, including provision of relocation sites with appropriate facilities and services, and (iii) assistance for rehabilitation to improve, or at least restoration of incomes and living standards to the pre-program level.

### 3.2 Principles on Compensation and Entitlements

26. The overriding principle for all development projects is that people unavoidably affected should be compensated and assisted, so that their economic and social future would be at least as favorable as it would have been in the absence of the program. This will be accomplished using the following specific principles.

- (i) Acquisition of land and other assets and shifting of people will be avoided and minimized as much as possible.
- (ii) Only PAPs who are found to be living in, doing business, or cultivating land, or having rights over resources within, the area of the SOREs, AIC and KAMFIMEX, as of the date of the census (cut-off date) are eligible for compensation for loss of assets, other assistance and rehabilitation for social and economic losses. PAPs will be compensated for affected land either through receiving replacement land or replacement cost for their land.
- (iii) All compensation for affected land, structures and other fixed assets shall be paid at replacement cost.
- (iv) The resettlement transition period will be minimized and the acquisition of assets, compensation, resettlement and rehabilitation for a segment/section or phase (except where long-term rehabilitation measures such as vocational training) will be completed at least one (1) month prior to the initiation of construction work under the respective segment/section or phase thereof.
- (v) PAPs losing all of their assets (farmland, house or business) or in case of partial loss when the remaining assets are determined as unviable for continued use, will be entitled for compensation for the entire assets at replacement cost.<sup>1</sup>
- (vi) In the case of a partial impact on the assets, i.e., partial loss of land or structures and the remaining assets remain viable for continued use, compensation for the affected assets will be paid in cash.
- (vii) Other types of landholders who are on a right of way or public land as of the cut-off date will be compensated for affected structures, other fixed assets and other losses but not for land. However, such affected persons shall receive special assistance<sup>2</sup> such that they are not made worse off by the program taking the land on which they were located.

<sup>1</sup> Where significantly large or entire landholdings are affected by the program or in cases where only partial land is affected but the remaining land becomes economically non-viable, the general mechanism for compensation of lost agricultural land will be through provision of "land for land" arrangements of equivalent productivity and at a location acceptable to the PAP. Where the PAPs stand to lose residential land with structures that exist in a closely located group exceeding 20 households, the program authorities, in consultation with affected households, may offer a relocation option to fully developed resettlement sites, or alternative facilities to housing projects. If suitable residential/agricultural replacement land is not available, and at the informed request of the PAPs, cash compensation at replacement cost will be provided.

<sup>2</sup> "Special assistance" can include provision of suitable land, rental allowances, disruption allowance, etc., as well as a vulnerable group allowance. The main point is that affected persons are not made worse off than they would have been had the program not taken place.

- (viii) In case of "land for land" arrangements for arable land, the replacement land should be in the form of land of equivalent productive value and/or characteristics at a location acceptable to PAPs. If replacement land at a location acceptable to PAPs is not available, cash representing replacement cost of land should be compensated.
- (ix) In case of land for land for residential and commercial sites, the program authorities shall provide PAPs the appropriate plot of land with basic services such as electricity, water, drainage, emergency sanitation service, and access at least at the pre-program level.
- (x) For resettlement site land, the plot owner of the proposed relocation site will also be entitled to compensation for his/her land, and depending on his/her choice, the compensation may be in cash or in the form of a replacement land within or outside the relocation site.
- (xi) The program authorities will provide resettlement assistance and the following minimum allowances to eligible PAPs:
  - a. **Disruption allowance** shall be given to PAPs whose business income is temporarily lost due to the program. The independent shops on the land in the area of the SOREs, AIC or KAMFIMEX that temporarily lose business during program implementation are eligible for this allowance. The allowance should be provided in cash based on the temporary projected business income lost.
  - b. **Vulnerable group** assistance shall be provided for vulnerable families, such as female-headed households, poor families, and disabled-headed households in an amount that shall assist them to become economically viable. In addition to any specific allowances to which members of vulnerable groups may be entitled, they shall also receive rehabilitation assistance based on their priorities and needs.
  - c. **Rental allowance** shall be given to house tenants of affected main structures, who will be forced to find a new place to live, at an amount equivalent to three month's rent. It shall also be given to affected persons forced to lease premises until replacement land and housing are available to them up to a maximum period of three months.
  - d. **Transportation allowance** (in cash or in kind according to mutual agreement of the PAP and the program authorities) to relocating PAPs. When the allowance is in cash, it shall be an amount equivalent to actual transportation costs.
  - e. **Repair allowance** is given to PAPs affected by a partial loss of structures and those affected during moving locations based on cost of repairs.
- (xii) Rehabilitation assistance is a form of special skills training, micro-credit, agricultural extension assistance to intensify or diversify land use, or other development support to PAPs severely affected due to the loss of productive assets and/or their only source of income and which will require them to engage in some other income-earning activities. The program authorities, by consulting with key stakeholders, will coordinate closely with concerned agencies (local authorities and independently assigned NGOs) that have the mandate and the expertise to undertake the needed rehabilitation assistance.
- (xiii) The program authorities will provide vulnerable PAPs the rehabilitation assistance needed to cope with a new environment and to improve their status. This assistance shall be based on the needs and priorities of the vulnerable groups.

- (xiv) Any PAPs' loss due to any acquisition or restriction on access to common resources as a common property will be mitigated by arrangements of such property that will ensure, as a first option, that new access of those PAPs to an equivalent resource will occur on a continuing basis, if feasible. If it is not feasible, then other alternatives shall be identified in consultation with the PAPs.
- (xv) Resettlement programs will include adequate institutional arrangements to ensure effective and timely design, planning, consultation and implementation of compensation and resettlement. The program authorities will ensure effective coordination with relevant agencies for the implementation of this policy framework and any resettlement plan (RP) prepared for the program.
- (xvi) Adequate arrangements will be made for the timely conduct of social assessments, inventory of affected assets, socioeconomic survey, and the preparation and implementation of RPs, including the timely conduct of internal and external monitoring of RP implementation.

27. General entitlements for compensation and rehabilitation assistance for different categories of PAPs are shown in the Entitlement Matrix below but the relevant RP, if necessary, may provide for more specific or additional allowances.

### Entitlement Matrix

	Type of Loss	Application	Entitled Person	Compensation
1	Arable land	Loss of arable land.	Eligible landholder	<ul style="list-style-type: none"> <li>Land for land or cash compensation for lost land at replacement cost according to PAP choice. "Land for land" will be provided in terms of a new parcel of land of equivalent productivity and free of taxes, registration and transfer cost; at a location acceptable to PAP; and with long-term security of tenure.</li> <li>Eligible for economic rehabilitation assistance and other allowances, as applicable.</li> </ul>
			Non-titled but possessory landholder	
		Lease holder and agricultural laborer/estate worker	<ul style="list-style-type: none"> <li>No compensation but additional assistance given so that they are not worse off due to the program and to enable them to replace affected assets.</li> <li>Cash compensation for agricultural laborer and estate worker equivalent to three months salary and assistance in getting alternative employment.</li> <li>Cash compensation equivalent to replacement cost of gross harvest for one year.</li> </ul>	
		Temporary acquisition or easement	Eligible landholder	<ul style="list-style-type: none"> <li>Cash compensation based on opportunity lost during the period.</li> </ul>
2	Residential land	Loss of residential land	Eligible landholder	<ul style="list-style-type: none"> <li>Compensation in cash at replacement cost or, at PAP choice, replacement land of minimum plot of acceptable size or a plot of equivalent size, whichever is larger, in a nearby resettlement area with adequate physical and social infrastructure.</li> <li>Replacement land to be free from taxes, registration and transfer costs.</li> <li>Eligible for relocation assistance and other allowances as applicable.</li> </ul>
			Non-titled but possessory landholder	
		Lessee and agricultural laborer/estate worker	<ul style="list-style-type: none"> <li>No compensation but additional assistance provided so that they are not worse off due to the program and enable them to replace affected assets.</li> <li>Eligible for relocation assistance and other allowances, as applicable.</li> </ul>	
		Temporary acquisition	Eligible landholder	<ul style="list-style-type: none"> <li>Cash compensation for the net loss of income and damaged assets.</li> </ul>
			Non-titled but possessory landholder	
Lessee	<ul style="list-style-type: none"> <li>Assistance provided so that they are not worse off due to the program.</li> <li>Cash compensation and other allowances, as applicable.</li> </ul>			

3	Commercial land	Plots used for business affected	Eligible landholder	<ul style="list-style-type: none"> <li>• Compensation in cash at replacement cost for the affected portion or, at PAP option, replacement land of sufficient size for business continuation in market area of resettlement area or at location comparable to previous site. When the affected premises are larger than the relocation plot, cash compensation at replacement cost to cover the difference in area.</li> <li>• Eligible for relocation assistance and other allowances, as applicable.</li> <li>• Eligible for economic rehabilitation assistance.</li> </ul>
			Non-titled but possessory landholder	
			Lessee	<ul style="list-style-type: none"> <li>• Assistance for finding new commercial place.</li> <li>• Eligible for relocation assistance and other allowances, as applicable.</li> <li>• Eligible for economic rehabilitation assistance</li> </ul>
4	Structures	Structures affected	Owner	<ul style="list-style-type: none"> <li>• Compensation in cash for affected portion of the structure and other fixed assets at replacement cost, without depreciation and without deductions for salvaged material.</li> <li>• Assistance in restoration of any remaining structure, if applicable.</li> <li>• Eligible for relocation assistance and other allowance.</li> </ul>
			Tenant	
5	Loss of business / incomes or employment	Loss of business / incomes / employment	Affected PAPs	<ul style="list-style-type: none"> <li>• Cash compensation for the loss of business, incomes and wages.</li> <li>• Assistance during the transition period.</li> <li>• Eligible for rehabilitation assistance and other allowances, as applicable.</li> </ul>
6	Standing crops, trees	Crops or trees affected by land acquisition or temporary acquisition/easement	Owner of crops or trees	<ul style="list-style-type: none"> <li>• Compensation in cash calculated on the basis of type, age and productive value of affected crops or trees.</li> <li>• Other allowances as applicable.</li> </ul>
7	Common resources	Loss of access	PAPs	<ul style="list-style-type: none"> <li>• Arrangement for new resource or rehabilitation assistance.</li> </ul>
8	Electric and/or water connection	Loss of, or damage to, affected assets, partially or entirely.	PAPs	<ul style="list-style-type: none"> <li>• Replacement or compensation to cover cost of restoring the facilities.</li> </ul>
9	Public facilities	Loss of, or damage to, public infrastructure	Concerned agencies	<ul style="list-style-type: none"> <li>• Replacement or compensation in cash at replacement cost to respective agencies.</li> </ul>
10	Special assistance	Special assistance to vulnerable group and indigenous/ethnic minorities	Vulnerable groups and indigenous/ethnic minorities	<ul style="list-style-type: none"> <li>• Vulnerable group and indigenous/ethnic minorities assistance/ allowance based on identified needs and priorities.</li> </ul>

#### **4. PUBLIC PARTICIPATION, CONSULTATION AND DISCLOSURE**

28. The program authorities would be responsible for public consultation and public information dissemination. Consultations and public participation would be carried out as an ongoing process for the implementation of the divestment process for the SOREs, AIC and KAMFIMEX. Preparation of appropriate documents, and planning and implementation of the divestment process will be carried out in consultation with the PAPs, and the PAPs will receive prior information of the compensation, relocation and other assistance available to them including:

- The relevant details of the program;
- The RPs, if any, and various degrees of program impact;
- Details of entitlements under the RP and what is required of PAPs in order to claim their entitlements;
- Compensation process and compensation rates;
- Relocation and resettlement site development operation in order to obtain agreement and support of affected people in participating in these operations; and
- Implementation schedule with a timetable for the delivery of entitlements.
- Information concerning grievance procedures and how to use them.

29. The program authorities would also provide a detailed explanation of the grievance process and enlist the help of village leaders and other influential community officials in encouraging the participation of the PAPs in resettlement activities. Finally, the program authorities shall attempt to ensure that all vulnerable groups including indigenous/ethnic minorities understand the process and that their needs are specifically taken into consideration.

30. Public participation is performed and information is made available during both preparation and implementation of the RP and should include, at a minimum, public information booklet, community meetings and television and radio reports.

31. RPs shall be displayed on the ADB's Website, with the EA's approval, and information on compensation and resettlement options shall be disseminated to PAPs, in a form and language they can understand and in an accessible place, prior to implementation of the RPs. This may be in the form of a resettlement information brochure or leaflet, a short RP (para. 43) or a full RP (para. 42).

#### **5. GRIEVANCE REDRESS MECHANISM**

32. Grievances related to any aspect of the program will be handled through negotiations and are aimed at achieving consensus. All complaints received in writing (or written when received verbally) from the PAPs will be documented by each level grievance committee, established by the program authorities at varying governance levels, i.e., commune, district and/or provincial levels. PAPs will be exempted from all administrative and legal fees incurred in pursuant to the grievance redress procedures. Grievance committees would comprise of representatives of PAPs, community leaders and independent assigned NGOs, in addition to the representatives of commune and district officials, and program authorities.

33. If PAPs do not receive any response from an established grievance redress body (at whatever level) within 20 (twenty) days from the filing of the complaint, or if the decision of

grievance redress body is not satisfactory, the PAP will have the right to submit the complaint to the next higher level of the grievance redress mechanism.

34. If the matter still remains unresolved after all levels of grievance redress have been utilized, the complainant may then forward his/her case to a court of law.

35. Where indigenous/ethnic minorities are affected, all complaints shall be discussed and negotiations shall be carried out in the community where the affected indigenous/ethnic minorities live. Where necessary, the program proponents will provide assistance so that the rights of the indigenous/ethnic minorities are protected.

36. In addition to the above mechanisms, and at the option of the PAPs, grievances may be taken to other mediating bodies, such as a council of village elders, monks at a local pagoda, or any other dispute resolution mechanism as may be decided by the PAPs.

## **6. MONITORING AND EVALUATION**

### **6.1 Internal Monitoring**

37. The program authorities would appoint adequate full-time staff to monitor the divestment process for public enterprises and any possible issues relating to resettlement. In order to assist with this monitoring, the authorities shall obtain and maintain appropriate baseline data for the public enterprises in addition to the outcome of the external auditing commissioned by the Government's national divestment committee. The monitoring staff will submit periodic progress reports to the involved authorities for inclusion in the progress report. The main objective of the reports is to determine whether the resettlement is effective and to make the needed recommendations for change. The monitoring staff will be present in the field as well as at every meeting related to resettlement issues.

### **6.2 External Monitoring**

38. Under the divestment process with any significant resettlement, an external agency will be contracted to monitor the process of resettlement. The external monitoring agency would be provided full access to program documents and database to facilitate monitoring process. The external monitoring agency will prepare periodic monitoring reports for submission to the program authorities as well as to ADB.

39. In the event monitoring by either the internal or external monitor shows that PAPs are not receiving entitlements due to them, or there are other problems in implementation in accordance with the RP, then the program authorities will take, on a priority basis, all steps necessary to rectify the situation and ensure compliance with an RP.

### **6.3 Evaluation**

40. Six months to one year after the completion of resettlement in the program, the program authorities will contract a competent external agency for ex-post evaluation of resettlement implementation to determine whether the objectives of the policy have been achieved and severely affected PAPs have been able to restore their incomes and livelihood to the pre-program levels. Where necessary, and based on the outcome of the evaluation, additional assistance would be provided by the program authorities to achieve the objectives of the policy framework.

## **7. REPORTING AND DOCUMENTATION**

### **7.1. Initial Social Assessment**

41. The program authorities will carry out initial social assessments to determine potential social issues and likely adverse impacts during the revision and updating of the 1998 divestment plan for the SOREs and the preparation of the divestment plans for AIC and KAMFIMEX. Based on the initial social assessments decision can be taken on the types of detailed studies and field investigations required and necessary documentation.

### **7.2 Full Resettlement Plan**

42. Where in the sub-program divestment process 200 or more people will experience major impacts, which are defined as: (a) when the PAPs are physically displaced from housing; or (b) 10% or more of their productive assets (income-generating assets) are lost, a full RP must be prepared. A full RP includes a statement of involuntary resettlement objectives and strategy. It includes (i) organizational responsibilities; (ii) community participation and disclosure arrangements; (iii) socioeconomic survey, and social and gender analysis; (iv) legal framework, including eligibility criteria and entitlement matrix; (v) mechanisms for resolution of conflicts and appeals procedures; (vi) identification of alternative sites and selection; (vii) inventory, valuation of and compensation for, lost assets; (viii) land ownership, tenure, acquisition, and transfer; (ix) access to training, employment, and credit; (x) shelter, infrastructure, and social services; (xi) environmental protection and management; (xii) monitoring and evaluation; (xiii) detailed cost estimate with budget provisions; and (xiv) an implementation schedule, showing how activities will be scheduled with time-bound actions in coordination with the main program.

### **7.3 Short RP**

43. Where in the sub-program divestment process less than 200 people will experience major impacts, a short RP must be prepared. A short RP covers the same issues, as relevant, but in less detail. Despite its abbreviated nature, the short RP must ensure that adequate compensation, rehabilitation, and relocation arrangements are planned and budgeted.

## **8. LEGAL AND INSTITUTIONAL REQUIREMENTS**

44. The program authorities will be responsible for planning and implementation of the divestment process and for, at a minimum, the following resettlement activities, if required:

- (a) Carry out all necessary surveys and field investigations and preparation of necessary documents;
- (b) With assistance from other relevant agencies and local authorities, implementation of resettlement activities in accordance with the approved RPs;
- (c) Address all deficiencies identified in resettlement implementation;
- (d) Ensure timely allocation of resources and budgetary provisions, and process compensation claims of PAPs to ensure that the same are paid in time as planned; and
- (e) Supervise and monitor RP implementation.

## **9. Costs and Budget**

45. Necessary funds for planning and implementation of RP, if required, will be provided by the program authorities from the counterpart funds generated under the program loan of ASDP or other sources of the program authorities. The program authorities will also provide for all costs related to mitigating adverse social impacts based on budgetary requirements established in the RP. All of these costs are to be a part of the total program adjustment cost.

46. Each RP will detail cost estimates for compensation and relocation (if applicable) of PAPs with a breakdown by category of PAPs and by type of assets affected, such as agricultural, residential, and commercial land; affected house, structures and other fixed assets; and type of assistances, such as transport allowance, disruption allowance, etc. The cost estimates will include adequate provisions for contingencies.

47. In case of overruns due to unforeseen circumstances or delays, the program authorities will allocate additional funds as necessary.