

ASIAN DEVELOPMENT BANK

TAR: CAM 37535

TECHNICAL ASSISTANCE

TO THE

KINGDOM OF CAMBODIA

FOR

ENHANCING THE RESETTLEMENT LEGAL FRAMEWORK

AND INSTITUTIONAL CAPACITY

December 2004

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.

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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
<p>Goal</p> <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 	
<p>Purpose</p> <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 	<p>Assumptions</p> <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 <p>Risk</p> <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
<p>Outputs Phase 1</p> <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 	<p>Assumptions</p> <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 <p>Risks</p> <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
<p>Phase 2</p> <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 	<p>Assumptions</p> <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 <p>Risks</p> <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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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.