

Bridges Across Borders Cambodia
#55 Street 101
Sangkat Boeung Trabek, Khan
Chamcarmon
Phnom Penh, Cambodia



21 November 2011

Special Project Facilitator
Asian Development Bank
6 ADB Avenue
Mandaluyong City
0401 Metro Manila, Philippines

Dear Special Project Facilitator,

1. Bridges Across Borders Cambodia (BABC) is submitting this complaint on behalf of households affected by the CAM: GMS Rehabilitation of the Railway in Cambodia Project [hereafter, the Complainants]. The Complainants currently reside in, or were resettled from, sites along the railway tracks that are being rehabilitated by the project in the provinces or municipalities of Sihanoukville, Phnom Penh, Pursat, Battambang and Poipet. They have authorized BABC to submit this complaint on their behalf, and to represent them throughout the SPF process (see Annex 1).
2. The Complainants are, or are likely to be, directly affected materially and adversely by the Greater Mekong Sub-region Rehabilitation of the Railway in Cambodia Project [hereafter the Project], which was launched in 2006 to restore the country's approximately 650 km railway infrastructure. The Project is funded primarily by loans and grants from the Asian Development Bank (ADB)¹ and the Government of Australia.² Its primary stated purpose is to boost economic growth and decrease poverty in Cambodia. It is part of ADB's multi-billion dollar Greater Mekong Sub-region Program³, which brings together 6 states of the Mekong river basin with a common goal of growth and prosperity through economic co-operation.
3. We submit the following facts (with supporting documentation attached):

¹ Asian Development Bank Loans: Loan-2288 REG: Cam: GMS Rehabilitation of the Railway in Cambodia (US\$ 42.0 million), Loan-2602 REG: Greater Mekong Sub-region: Rehabilitation of the Railway in Cambodia Project (US\$ 42.0 million).

² Grants from the Government of Australia: TA-6251 REG: GMS Rehabilitation of the Railway in Cambodia (US\$ 960.000), Grant-0187 REG: Greater Mekong Subregion: Rehabilitation of the Railway in Cambodia Project (US\$ 21.5 million), TA-7460 REG: Outcome Monitoring and Procurement Review (US\$ 400.000), TA-7460 REG: Outcome Monitoring and Procurement Review Supplementary (US\$ 100.000).

³ The Greater Mekong Subregion Program was launched with the assistance of the ADB in 1992.

- a. At least 4174 households⁴ living near the railway line stand to be fully or partially affected by the Project, meaning that they will have to be resettled or partially relocate their houses and/or businesses. With the exception of residents living in Samrong Estate who have asserted their legitimate possession rights to that land, the households affected by the Project (AHs) live on land defined by the Cambodia Land Law (2001) as State Public Property and are generally regarded as “illegal settlers” by the Royal Government of Cambodia (RGC). Nonetheless, under the Project policy, their occupation of State Public Property does not preclude entitlements. AHs are entitled to compensation for their losses, a plot of replacement residential land with secure tenure for those who lose all or most of their structures, and other support in order to ensure that they are not made worse off as a result of the Project. Moreover, they have a right to information and meaningful consultation about the Project and resettlement plans, and to effective remedies if their rights are violated. These are the basic requirements of the ADB Policy on Involuntary Resettlement (1995) and international human rights law to which the Kingdom of Cambodia is bound.⁵
- b. Resettlement activities commenced in mid-2010 along the Southern Line in Sihanoukville province and the Northern Line in Battambang province. BABC and other groups monitored this process and found that it was deeply flawed. As documented in the field research report (see Annex 2), AHs interviewed in August 2010 reported that inadequate compensation rates, coupled with inadequate services and facilities at the relocation site, made resettled residents vulnerable to increased poverty, unsanitary health conditions, and worsened living conditions. They reported that the costs of resettlement – both the monetary costs of moving and rebuilding a house and the lost income from foregone work resulting from the resettlement – generally and substantially exceed the compensation provided. In addition, resettled Sihanoukville residents complained about the lack of electricity and running water, and the poor condition of the road leading to the resettlement site. Residents also reported that schools, health facilities, pharmacies and hospitals were too far away. From interviews held with the Sihanoukville communities a year later, in July 2011, little improvement had been made on the majority of these issues.
- c. Most alarmingly, during an October 2010 field research trip to Project sites in Battambang province, BABC found that approximately 55 families had been relocated to a site that was not equipped with any water supply. The field research team was informed that, four days after being relocated, two sibling children (aged 9 and 13) drowned in the pond that the community was forced to use in order to access water. Interviews with families at the site revealed a plethora of serious problems relating to a lack of access to food and basic services, and increased impoverishment. The field research team found that almost all families had been forced to borrow money to subsist, rebuild their houses, and connect to electricity (other families remained unconnected because they simply could not afford to do so). In some cases, they earned less per day than their interest repayments. Widows reported being treated particularly unfairly and in some cases did not receive a

⁴ As per the updated Resettlement Plans (2009).

⁵ International Covenant on Economic, Social and Cultural Rights (1966) and International Covenant on Civil and Political Rights (1966).

separate plot of land. Instead they were told to live with their parents or children, despite living separately at their former location. Rather than receiving extra-support as especially vulnerable people, in some cases they received even less than other households. The vast majority of families that the field research team spoke to reported that they were significantly worse off than before they moved and women, in particular, expressed feelings of desperation and abandonment. Months after the families were relocated, no income restoration program (IRP) had even been contracted, despite the requirement that it commence prior to resettlement with a baseline social assessment. A short video documentary of the October 2010 field research visit, including interviews with AHs, including widows, and focus group discussions with women can be viewed at the following web link:

http://www.youtube.com/watch?v=EtFPqcVNlzc&feature=player_embedded

- d. In Phnom Penh, before the resettlement process had begun, affected households were reporting concerns about a lack of information and consultation on the terms of resettlement plan, as well as irregularities in the detailed measurement survey (DMS). Between May and September 2010, BABC communicated extensively by email with the Project's part-time Social Advisor, Pierre Arnoux, who made quarterly visits to Cambodia to monitor and assist the resettlement process. During this time period, BABC and other NGOs held several meetings with Mr. Arnoux and the Project Officer, Peter Broch. These communications and meetings focused in large part on the concerns reported by AHs and on the Phnom Penh Updated Resettlement Plan, which had not yet been disclosed or approved by ADB. Concerns were raised repeatedly by BABC, other NGOs and staff of the United Nations Office of the High Commissioner for Human Rights (OHCHR) about the proposed location of the Phnom Penh relocation site, which was between 20 to 25 kilometers from the former location of AHs. ADB was urged to identify a different relocation site closer to the livelihood sources of the AHs or to invest heavily in an income restoration program, including the provision of social security cash payments in the interim period before people were able to restore their income levels. However the resettlement budget, born almost entirely by the Cambodian Government, did not appear to provide sufficient resources to restore the livelihoods of so many people who were about to be physically and economically displaced.
- e. Unsatisfied that the Project team was acting upon the information provided and taking seriously the concerns that had been raised on many occasions over the previous five months, particularly in light of the revelation of the resettlement-related drowning death of the two children in Battambang, four concerned NGOs wrote to ADB President Haruhiko Kuroda on 21 October 2010 (see Annex 3). The letter set out the NGOs concerns and called upon ADB to suspend Project loan disbursements until the problems identified were rectified.
- f. Following a visit to the Battambang resettlement site and a subsequent meeting with concerned NGOs (see Annex 4), ADB Director General Kunio Senga responded substantively to the issues raised in the NGO letter on 13 December 2010 (see Annex 4). In the letter, Mr. Senga stated that ADB shares NGOs' concerns about the way resettlement has been implemented under the Project and had taken or committed to take the following mitigating measures in conjunction with IRC:

- Deliver piped potable water by tanker truck to residents at the Battambang resettlement site until piped water is available and to connect the site to piped water supply by 2012.
- Reimburse relocated AHs at all sites for utilities connection fees.
- Introduce and mandate a “Resettlement Checklist”, which, as IRC agreed, was to be completed and sent to ADB for approval at least 2 weeks before compensation payments were made and required the following before such payments were made:
 - Relocation sites equipped with basic facilities and services, including potable water, electricity, latrines and drainage systems;
 - Compensation rates updated; and
 - ADB’s prior review and approval of the income restoration contractor’s inception report and income restoration program.
- Take action to prevent indebtedness, including requesting that the IRC and Independent Monitors quickly review the debt and socio-economic situation of all families at the existing resettlement sites and propose actions to ease the affected people’s circumstances.
- Undertake interventions to strengthen the Project grievance mechanism.
- Intensify monitoring to ensure that resettlement under the Project is implemented properly and in compliance with the agreed resettlement plan.

In addition, ADB committed to request IRC to 1) review the issue of unfair allocation of land, 2) review and substantiate its assertion that there are no significant changes to warrant an adjustment of the 2006 compensation rates, 3) and provide retroactive compensation to affected people who have already received compensation “[i]f a need for adjustment is identified.”⁶ ADB further committed to review and address

- g. Despite these commitments and the ongoing dialogue with both Cambodian Resident Mission and regional ADB Operations staff over the past year, there has been no resolution of the most serious resettlement problems that have been brought to ADB’s attention. Notably, compensation rates have not been adjusted from the 2006 market values, upon which the Resettlement Plan is based, despite the annual inflation acknowledged by ADB. Moreover, the DMS has not been reviewed, despite well-documented evidence that it is fundamentally flawed. The report, *Rehabilitation of Cambodia’s railways: Comparison of field data*, published by local NGO Sahmakum Teang Tnaut (STT) in July 2011, finds problems relating to the DMS of all 70 households that were surveyed (see Annex 5). In the majority of cases, data collected by STT showed that, based on the compensation policy in Phnom Penh Updated Resettlement Plan, affected households were eligible to receive (sometimes significantly) higher compensation rates than that which was accorded to them by the IRC. One of the reasons for this, according to the STT report, is that there has

⁶ Annex 5, at p. 2.

been systematic downgrading of structure categories and corresponding compensation rates by the IRC.

- h. Inadequate compensation, resulting both from a flawed resettlement plan and flawed implementation, has resulted in AHs using their resettlement site land plots as collateral to borrow money from private lenders at high interest rates, renting houses close to urban centers, or living with relatives. This is reflected in a survey conducted by the External Monitoring Organization (EMO) and reported in the 12th Quarterly Social Monitoring Report. The EMO found that only 13 out of 31 totally affected households moved to the resettlement site, with 60% of AHs reporting that the compensation they received was inadequate to restore their lost property. Furthermore, the income restoration programs contracted for the Southern and Northern Lines have continued to be totally inadequate.
- i. AHs throughout the country have reported to BABC that they have been threatened, intimidated, or otherwise coerced into accepting compensation and resettlement packages that they considered inadequate. In a research sample of 200 affected households interviewed by BABC spanning many of the geographical areas of the Project, 35 percent of respondents reported intimidation or threats by local authorities in at least one stage of Project implementation. This figure was higher in Poipet province, where 25 out of 52 AHs interviewed, or 48%, reported some form of coercion or intimidation related to Project implementation. Common threats reported by AHs are that their homes would be demolished and they would receive no compensation and/or be required to pay fines if they do not accept proffered compensation packages and relocate. Many AHs who already accepted compensation reported being threatened with legal action if they complain. These threats have reportedly often been accompanied by statements by IRC officials or local authorities that the “illegal” tenure status of AHs means that they are lucky to receive any compensation at all.
- j. Official threats, intimidation and punitive action have also been directed at NGOs that are monitoring and providing support to AHs, and have apparently followed from a request by an ADB consultant. In July, TV station TVK ran an interview with government officials about the railway project, in which two unnamed groups were accused of “inciting, provoking and making affected families confused.”⁷ The program was broadcast at least six times on different stations. On 05 August 2011, STT received a letter from the Ministry of Interior (MoI) suspending the organization for a period of five months, until the end of 2011. The reason cited for the suspension was administrative, however, there is no legal basis upon which to suspend an organization on account of administrative technicalities. Indeed, the MoI stated in meetings with the organization that the reason for the suspension was STT’s work on the Railways project. This was also made public in an MoI statement on Aug. 13, which accused STT of incitement of people living along the railways and intention to make “the government’s development partners” suspend or cease the railways project. Following STT’s illegal suspension, BABC and another umbrella organization attended a meeting with the Ministry of Foreign Affairs and International Cooperation (MoFAIC) on Aug. 18. During the meeting, the two

⁷ “Cambodian NGOs under the gun,” Asia Times Online, 20 September 2011.

organizations were reprimanded for their work on the railways and accused of incitement. Following the meeting, MoFAIC gave both organizations a letter stating that they were in flagrant violation of their MOUs, in relation to the NGO letter to ADB President Haruhiko Kuroda on 21 October 2010, and that repeated violations would result in the termination of the MOUs.

It later became apparent that the reason for the crackdown on civil society organizations monitoring the Project, and on STT and BABC in particular, stems from a June 17th letter addressed to the Prime Minister, signed by the Minister of Economics and Finance and copied to the Minister of Foreign Affairs, Minister of Interior, and Minister of the Council of Ministers. The letter singles out BABC and STT for providing support to affected people who have disputed the resettlement package, and states that:

[An] ADB Consultant had drawn the attention of government officials to be careful with these NGOs and requested the Government to take immediate action on this group of ignorant foreign NGOs because (the) ADB is also under political pressure caused by these NGOs.⁸

The letter explicitly requests that the Royal Government take immediate action to “nullify the eligibility” of the two organizations. The Prime Minister signed the letter on June 19 with the note approving its contents.⁹

- k. Despite this pervading environment of intimidation, which has inhibited aggrieved AHs from complaining, a significant number of people have sought redress through the Project grievance mechanism. BABC has monitored such complaints by 332 AHs throughout the country. The total number of grievances submitted, including those that BABC has not monitored, is unknown. Despite the geographic disparity between complainants, the substance of the complaints that BABC has monitored is quite similar. The complaints generally relate to insufficient compensation to restore lost assets and/or adequate housing, resulting in increased indebtedness; multiple families living in one shelter who were not awarded separate plots of land at the Project-sponsored resettlement site; faulty DMS that substantially downgraded entitlements, including assistance for vulnerable households; unanswered oral and written complaints, which were previously filed with local authorities tasked with implementing the grievance mechanisms; and a lack of sufficient consultation and information disclosure on key Project terms.
- l. The Project grievance mechanism, however, has not worked. BABC’s monitoring and research has indicated that AHs with grievances either do not know where or how to complain, due to both a lack of awareness about the grievance mechanism and low literacy levels, or they are afraid to do so due to the overall environment of intimidation and specific threats that many people have received. Furthermore, the local authorities and IRC officials who are tasked with implementing the local grievance mechanism are unaware of their roles and responsibilities. ADB was aware of these problems since we first raised them with the Project team in a meeting on

⁸ “Asian Development Bank denies requesting action against NGOs,” Deutsche Presse-Agentur, 19 September 2011.

⁹ *Id.*

- 19 May 2010 (see Annex 7). Nevertheless, ADB only began orienting local grievance mechanism officials about the grievance process and their roles and responsibilities in June 2011.¹⁰
- m. Following a Resettlement Review Mission conducted 6-14 June 2011, during which resettlement problems were acknowledged, an agreement was reached between ADB, AusAID and the Cambodian Government. ADB released a “Fast Facts” statement about the agreement on 30 June 2011, which stated that:
- No relocation will occur for (i) AHs with complaints/requests until these are addressed and (ii) AHs entitled to a plot of land in the resettlement sites until basic facilities are in place at the sites;
 - An external monitoring group has examined compensation concerns and ADB will consider the findings and decide on further action by the end of July 2011;
 - A timetable for the completion of electricity, water supply and other basic facilities at relocation sites has been drawn up. The parties have also agreed to an expansion of the income restoration program to fund livelihood support for resettled families;
 - The grievance redress process will be improved. Meetings with the village officials and Inter-ministerial Resettlement Committee (IRC)-working group in Phnom Penh are now ongoing to deal with all requests and complaints received from all the affected households.¹¹
- n. Despite this agreement, as of November 2011:
- More than 90 percent of the 332 complainants with whom BABC is in contact have reported that their grievances remain unresolved;
 - AHs have begun relocating in Phnom Penh and Poipet, after being told by the IRC that they had 30 days to move or face penalties, despite the fact that DMS and compensation discrepancies have not been resolved;
 - AHs report prohibitive electricity and water connection fees both in Phnom Penh (approx. USD \$77) and Poipet, as well as flooding due to ineffective drainage infrastructure, and a lack of accessible schools and health centers;
 - No Income Restoration Program has commenced in Phnom Penh, requiring AHs displaced from their livelihoods to borrow money from private money lenders by mortgaging their land plots in order meet their daily subsistence needs;

¹⁰ As reported by the Resettlement Review Mission in a meeting with NGOs and AHs on 9 June 2011 (see Annex 6).

¹¹ Asian Development Bank, FAST FACTS on An Agreement between the Resettlement Department-Ministry of Economy and Finance (RDMEF) and Asian Development Bank (ADB) on Resettlement Matters Related to the ADB L2288-CAM: GMS Rehabilitation of the Railway in Cambodia Project (30 June 2009).

- Income Restoration Programs at other locations have been reported by APs as being inadequate to restore their incomes, and have mainly consisted solely of short vocational training seminars.
 - As a result of difficulties stemming from resettlement, some relocated families in Poipet and Phnom Penh have reported that their children had to drop out of school;
 - AHs in Battambang report that water trucks, which had been delivering subsidized water to affected people at an affordable price following ADB's intervention in December 2010, have stopped. A new pond that was dug behind the resettlement site replaced this service and was intended by ADB and IRC as a permanent water solution, contrary to ADB's assurances in its 13 December 2010 letter to NGOs. AHs report that the pond water is undrinkable and that there is an insufficient supply to meet the water needs of even a few families. The families have now been forced to return to fetching water from the rice fields.
 - ADB has not taken further action, or reported any follow up action, with respect to the examination of compensation rates.
4. The rights and interests of the Complainants that have been, or are likely to be, directly affected materially and adversely by the Project include the following:
- The right to be protected from forced eviction, defined under international law as the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protections.¹²
 - The right to be fully informed and closely consulted on resettlement and compensation options;¹³
 - The right to be compensated and assisted so that their economic and social future is at least as favorable as they were without the Project, including through the provision of replacement land, housing, infrastructure and sufficient resources and opportunities to reestablish their homes and livelihoods as soon as possible;¹⁴
 - The right to be assisted to at least restore their former living standards, income-earning capacity and production levels;¹⁵
 - The right of the poorest and most vulnerable groups to appropriate assistance to help them improve their status;¹⁶

¹² Constitution of Cambodia (1993), article 31; International Covenant on Economic, Social and Cultural Rights (1966), article 11; and UN Committee on Economic, Social and Cultural Rights, General Comment 7 (1997), para. 3.

¹³ Asian Development Bank, Involuntary Resettlement Policy (1995), para. 34 (v).

¹⁴ *Id.* para. 34 (iii).

¹⁵ *Id.* para. 42.

¹⁶ *Id.* para. 34 (vii)

- The right to adequate housing, as a component of the right to an adequate standard of living, including sufficient space, privacy and protection from the elements, and access to basic services and facilities in an appropriate location close to livelihood opportunities;¹⁷
- The right to an affordable and adequate supply of water, as a component of the right to an adequate standard of living, in accordance with World Health Organization guidelines on water quantity and quality,¹⁸ on a non-discriminatory basis, including on the grounds of their housing or land status.¹⁹
- The right to be free from discrimination on the grounds of property and land tenure status.²⁰
- The right of every child to an adequate standard of living for the child’s physical, mental, spiritual, moral and social development, including in case of need to be provided with material assistance and support programs particularly with regard to nutrition and housing.²¹
- The right of every child to the enjoyment of the highest attainable standard of health, including through the provision of clean drinking water, and to facilities for the treatment of illness and rehabilitation of health.²²
- The right of every child affected by the Project to education on the basis of equal opportunity;²³
- The right to an effective remedy for persons whose rights have been violated.²⁴

5. The direct and material harm outlined above is the result of acts and omissions of ADB in the course of the formulation, processing, and implementation of the Project. The acts or omissions that we believe are the responsibility of ADB include the following:

¹⁷ Constitution of Cambodia (1993), article 31; International Covenant on Economic, Social and Cultural Rights (1966), article 11; and UN Committee on Economic, Social and Cultural Rights, General Comment 4, (1994).

¹⁸ See J. Bartram and G. Howard, “Domestic water quantity, service level and health: what should be the goal for water and health sectors”, WHO, 2002; and WHO, *Guidelines for drinking-water quality*, 2nd edition, vols. 1-3 (Geneva, 1993).

¹⁹ Constitution of Cambodia (1993), article 31; International Covenant on Economic, Social and Cultural Rights (1966), article 11; and UN Committee on Economic, Social and Cultural Rights, General Comment 15, (2002), paras 12 and 16.

²⁰ Constitution of Cambodia (1993), article 31; International Covenant on Economic, Social and Cultural Rights (1966), article 2.2; and UN Committee on Economic, Social and Cultural Rights, General Comment 20 (2002), para. 25.

²¹ Constitution of Cambodia (1993), article 31; United Nations Convention on the Rights of the Child (1989), article 27.

²² Constitution of Cambodia (1993), article 31; United Nations Convention on the Rights of the Child (1989), article 24.

²³ Constitution of Cambodia (1993), article 31; United Nations Convention on the Rights of the Child (1989), article 28.

²⁴ Constitution of Cambodia (1993), article 31; International Covenant on Civil and Political Rights (1966), article 2.3.

- Inadequate identification and mitigation of risks during the Project design, appraisal, and approval stage;
- Approval of resettlement plans and budgets that are unsatisfactory to meet the requirements of the Policy on Involuntary Resettlement and to ensure the restoration of the social and economic base of those relocated;²⁵
- Failure to provide the required resources and capacity-building to ensure compliance with the Policy on Involuntary Resettlement by ADB staff and the RGC, including in relation to information disclosure and dissemination, meaningful consultation, resettlement processes and schedules, detailed measurement surveys, income restoration programs, resettlement sites, compensation rates, grievance mechanisms and the overall budget for resettlement;
- Failure to adequately enforce the Policy on Involuntary Resettlement and related contractual obligations between ADB and RGC and to supervise resettlement activities during the planning and implementation stages;
- Failure to take effective action, within the tools and remedies available to ADB, to prevent foreseeable harms related to ongoing resettlement activities, which were previously experienced by other APs and reported by the external monitoring agency and monitoring NGOs;
- Apparent collusion (by an agent of ADB) with the RGC to take punitive action against civil society monitoring groups.

6. In respect of the above acts and omissions of ADB, we recall the statement of the United Nations Committee on Economic, Social and Cultural Rights, in its General Comment No. 2, that:

[I]nternational agencies should scrupulously avoid involvement in projects which, for example... involve large-scale evictions or displacement of persons without the provision of all appropriate protection and compensation... [W]herever possible, the agencies should act as advocates of projects and approaches which contribute not only to economic growth or other broadly defined objectives, but also to enhanced enjoyment of the full range of human rights...

Every effort should be made, at each phase of a development project, to ensure that the rights contained in the Covenant are duly taken into account.²⁶

7. The above may not be an exhaustive list of all rights and interests that have been directly affected materially and adversely by the Project, or the acts and omissions of ADB that have been a proximate cause of the harms. Consequently, BABC reserves the right to supplement and/or amend this complaint letter.

8. The Complainants seek the following outcome and remedies through the help of the Special Project Facilitator:

- a. Full disclosure of the existing DMS, including the inventory of losses, to AHs and a

²⁵ Asian Development Bank, Involuntary Resettlement Policy (1995), para. 36 and 38.

²⁶ United Nations Committee on Economic, Social and Cultural Rights, General Comment 2 (1990), para. 6 and 8 (d).

- comprehensive, independent, participatory, and transparent review and revision of the DMS to ensure its accuracy and consistency;
- b. A comprehensive, independent and transparent review and revision of the compensation policy such that it 1) meets the ADB standard of full replacement value at current market rates, and 2) provides a compensation “floor” that is sufficient to ensure that displaced households are able to secure adequate housing upon relocation;
 - c. Reimbursement for the actual costs of replacing lost assets that have not yet been compensated;
 - d. Repayment of debt principle and interest incurred as result of inadequate compensation and resettlement processes;
 - e. A properly planned and resourced income restoration program, implemented by a competent agency, without further delay;
 - f. Delivery of cash payments for loss of income, including past losses, at a minimum to cover household daily subsistence needs, until income levels are restored to their pre-Project levels;
 - g. Access to affordable basic services at relocation sites, including at a minimum, potable water and electricity connected free of charge, adequate drainage and sanitation facilities, access roads, primary and secondary schools, and health centers.
 - h. Adequate replacement land allocation, in an appropriate and acceptable location, including provision of one plot of land for each affected family with their own family book.
 - i. An immediate halt to all threats, disinformation and the overall environment of intimidation that has pervaded the Railways resettlement process.
 - j. Temporary suspension of resettlement activities until the problems contained in this complaint letter are fully resolved.
8. As detailed above, the Complainants, BABC and other NGOs that have been monitoring the Project have previously made extensive good faith efforts to address the aforementioned problems with the relevant authorities, the relevant ADB Operations department, and the Senior Management of ADB, through numerous written communications, meetings, submissions of evidence, and verbal and written complaints to the Project grievance mechanism since May 2010. This correspondence is summarized in the attached Railways Resettlement Issue Matrix (see Annex 7). BABC will make all actual correspondence and meeting minutes available to Special Project Facilitator upon request.
9. We note that the large number of complaints submitted to the Project grievance mechanism, the reports of the external monitoring organization (EMO), and the empirical research findings of monitoring NGOs indicate that there are widespread and systematic problems with the DMS, proffered compensation and resettlement packages, such that they are insufficient to ensure that the AHs are not made worse off as a result of the Project. Moreover, BABC and other support groups have insufficient resources and capacity to reach all AHs and provide them with information about their rights and entitlements under the Project, including their right to complain to the ADB Accountability Mechanism should these not be fulfilled, while both IRC and ADB have made little to no effort to do so.

Finally, we note that there have been widespread reports of intimidation and threats made to AHs by IRC officials, including during meetings monitored by BABC, where they have been warned that they will face serious consequences if they complain. This lack of awareness and intimidation is likely to have prevented significant numbers of people who have been, or are likely to be directly affected materially and adversely by the Project from adding their names to this complaint.

10. In light of the above, BABC calls upon the Special Project Facilitator, using the tools at its disposal, to endeavor to ensure that any remedies resulting from the SPF process will be applied across the board to benefit all people who have, or are likely to, suffer harm as a result of identified problems, including AHs who were not signatories to the complaint.

11. BABC reserves the right to provide further information related to this complaint and to add the names of additional complainants who request to be included at a later date. The Complainants request that any amendments, including provision of documentation and other evidence, and any subsequent joinder of additional Complainants relate back to the date of filing of this original complaint.

12. The Complainants request that their identity be kept confidential due to the serious threats that have been made against them, as detailed in paragraph 3.

13. For security purposes and to better ensure the success of the consultation phase, BABC does not authorize the Special Project Facilitator to publicly release the contents of this complaint at this time. BABC reserves the right to authorize the public release of this complaint, including supporting documents, at a later date.

14. The Complainants request that the Special Project Facilitator respond in both Khmer and English.

Sincerely,

Name and signature deleted at the signatory's request.