

Resettlement Planning Document

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CAM: Stung Chinit Irrigation and Rural Infrastructure Project (Loan No. 1753-CAM [SF])

Prepared by the Inter-Ministerial Resettlement Committee, under the Chairmanship of the Ministry of Economy and Finance; and the Ministry of Water Resources and Meteorology

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Royal Government of Cambodia
Inter-Ministerial Resettlement Committee
Ministry of Water Resources and Meteorology



Asian Development Bank

CAMBODIA

**STUNG CHINIT IRRIGATION
AND RURAL INFRASTRUCTURE PROJECT
(Loan No. 1753-CAM (SF))**

RESETTLEMENT PLAN

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STUNG CHINIT IRRIGATION AND RURAL INFRASTRUCTURE PROJECT RESETTLEMENT PLAN

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ACRONYMS AND ABBREVIATIONS

ADB	Asian Development Bank
APs	Affected Person (s)
CARDI	Cambodian Agriculture Resources Development Institute
COI	Corridor of Impact
EA	Environmental Assessment
EM	External Monitor
FWUG	Farmer Water User Group
FWUCs	Farmer Water User Communities
GRC	Grievance Redress Committee
IOL	Inventory of Losses
IRC	Inter-ministerial Resettlement Committee
MEF	Ministry of Economy and Finance
MLMUPC	Ministry of Land Management, Urban Planning and Construction
MOWRAM	Ministry of Water Resources and Meteorology
MRD	Ministry of Rural Development
NGO	Non-Government Organization
PDAFF	Provincial Department of Agriculture, Forests and Fisheries
PDLMUPC	Provincial Department of Land Management, Urban Planning and Construction
PDWRAM	Provincial Director of Water Resources and Meteorology
PIU	Project Implementation Unit
PMO	Project Management Office (of the Ministry of Water Resources and Meteorology)
ROW	Right-of-Way
RP	Resettlement Plan
SCRS	Stung Chinit Resettlement Subcommittee
SES	Socio-economic survey
TOR	Terms of Reference

EXECUTIVE SUMMARY

The Stung Chinit Irrigation and Rural Infrastructure Project (the Project) involves the rehabilitation of the Stung Chinit irrigation scheme in Kampong Thom province, and the associated upgrading of its rural infrastructure. The primary objectives of the Project are to increase agricultural productivity and farmer incomes, and stimulate the rural economy. This would be achieved through the provision of irrigation and drainage, initially in a Priority Area, for 2,960 ha. wet season and 2,000 - 3,000 ha. dry season production. The Project will establish the infrastructure to provide the basis for future irrigation and drainage of a further approx. 4,420 ha. in the southern sector served by the existing main canal. A further aim (in Part B of the Project) is to improve access and transportation and marketing systems through the rehabilitation of 150 km. rural roads and 6 markets.

This document is the Resettlement Plan (RP) that has been prepared to provide for the involuntary resettlement¹ of people affected by the main canal works, irrigation system, drains and reservoir development under the Stung Chinit Irrigation and Rural Development Project.

The RP provides detailed information on the affected population, land and structures costings for resettlement and resettlement administration and the institutional arrangements under which the RP would be implemented. The RP is based on the assumption that the extent of resettlement is that determined by the Priority Area which has been proposed by the consultants in their June 2003 Supplementary Analyses in response to an ADB mission Aide Memoire of 4 April 2003.

The project involves an iterative process of survey and design which requires for some of the irrigation system an inventory of losses and consultation with APs and resettlement measures to be agreed and carried out during implementation. The RP therefore also provides a methodology and provisional costings for resettlement (primarily land replacement) in areas for which designs and alignments will only be available as the project goes forward in the Priority Area, and for which an inventory of losses cannot be done until alignments are in place and corridors of impact are marked out.

Because the alignments for secondary canals and drains in the Priority Area command area will be surveyed and marked out in detail in consultation with farmers during implementation, the inventory of losses and identification and registration of APs in the command area will be therefore be done, in agreement with the IRC and ADB, on an iterative basis during 2003/2005. The RP provides for this continued process to permit compensation, payment of allowances and other assistance to be completed in each secondary system at least one month before any construction and in phase with the progressive step by step authorisation of construction works (Annex F). Such a system of continued inventorisation of losses and compensation during project implementation is dictated by the iterative process of physical survey and design which the topography of Cambodia demands in water resource management, and which has also been noted as a necessary procedure in the North West Irrigation Sector Project (eg in the development of the Kamping Poey-Mongkol Borey Link Canal Subproject reservoir, ADB NWISP Preparation Report, Appendix J, Annex B). A further reason for this continuous process of compensation, which will also apply in NWISP and other future projects, is the

¹ Involuntary resettlement is said to occur when taking of land and other assets results in involuntary loss of shelter, loss of productive assets or access to productive assets, or loss of income and means of livelihood. It covers both (i) the involuntary displacement (physical and non-physical) of affected people that arises from such changes, whether or not the people must move to another location; and (ii) the measures for mitigating the impacts of displacement or losses of assets or income. An important aspect in this approach is that the term 'resettlement' is not limited to the physical relocation of people or households, but refers also to actions such as compensation and allowances to restore their economic circumstances and livelihoods.

need to achieve the replacement of land lost in secondary canals and drains in land adjustment in the affected tertiary blocks. Inventorisation of losses, compensation and consultation leading to land replacement in tertiary block land adjustment have to continue hand in hand throughout implementation.

The RP has therefore been prepared on the basis of detailed measurement and socio-economic survey of all APs, with the exception of two areas in which alignments and therefore land losses will only be known during implementation:

(a) of those in secondary canals and drains and embankment roads in the command area, for which the corridor of impact is not yet known; and

(b) of potentially affected land and households in the Ochork tributary, for which no assessment of impact will be available until implementation of the reservoir and flood control system.

The RP draws on an earlier Draft RP conducted in September 2000 during the PPTA, which the Loan Agreement required to be updated during Project implementation. This requirement is now fulfilled by the present RP.

The RP is also based on consultation with MPWT, the Inter-Ministerial Resettlement Committee of RGC (IRC), MEF and the Ministry of the Interior, with other concerned ministries, and with people affected by the Project (APs). These consultations also included the Provincial Governor's Office, Provincial Resettlement Sub-Committee of the Province of Kampong Thom and the Provincial Project Steering Committee, which is represented in the IRC, and PDWRAM PIU. The Lahmeyer and GRET technical assistance teams have also been consulted and provided valuable guidance and technical advice and coordination. The RP provides for continued close coordination between the resettlement programme, project engineers and the land management and agricultural development programme assisted by GRET.

There have been significant changes since the date of the September 2000 draft RP:

- changes related to the design of canal, drainage, the reservoir and dikes;
- a MOWRAM and IRC confirmation that the 30 August 2001 Land Law, relating to land acquisition for public works and entitlement to compensation, establishes a legal requirement for compensation for land lost to secondary canals and drains in the irrigation system not recognised in the 2000 draft RP; substantial changes in the figures for APs through a more accurate topographical study and orthophotomapping done since the 2000 TA, which showed a much wider area of the river valleys to be inundated and led to the DMS being extended to these areas;
- the inclusion of APs in the impact area of flood embankments and drains required by the Stung Chinit reservoir.

There are substantially larger numbers of APs than were recorded at the time of the September 2000 Draft RP. 1,778 households in total will be affected by the project. There are 1,178 households in the corridor of impact of the main canal and of the drains from protected land, and in the reservoir and its embankments. There are a further approximately 400 households in the corridor of impact of secondary canals, drains and embankment roads, for which an inventory of losses and socio-economic survey will be conducted during implementation in the irrigated Priority Area. The RP also makes provision for losses to approximately 200 households in the Ochork tributary for which measurement of any loss of land use in seasonal inundation can only be done following the completion of the reservoir and the extent of minimisation of impact by management of flood control is known during implementation.

The total number of households affected in the Priority Area is therefore provisionally calculated to be 1,778, but of these about three-quarters suffer only marginal land loss or some loss of seasonal land use – losses which the project will assist to overcome by changed land and water use.

There is no major displacement of people or houses caused by the project. A total of 39 houses and 28 trading stalls are displaced on the main canal, plus the 16 houses displaced in the reservoir, all of which will be relocated close by.

The creation and functioning of the irrigation system and additional benefits from the reservoir and from embankment roads are seen overwhelmingly by the community, including APs, and in project analysis as outweighing land losses. A specific task of resettlement planning is that of ensuring that households which do suffer severe land loss have their land holdings and livelihoods fully restored.

A number of measures have been put in place to mitigate the impact of land losses, which are described further below, including replacement of land or compensation sufficient for replacement, in most cases in nearby land, by farmers themselves; provision of irrigation from the reservoir for farmers having to replace land outside the reservoir embankment; and the creation of embankment roads which will greatly improve access and crop marketing.

If the southern section, not included in the Priority Area or in present Project Loan financing, were brought under command, approximately 330 households would additionally be affected by small land losses to the main canal (a total of 29 ha.) and a further 500 households would lose small areas of land to the secondary canals and drains (75 ha.). As in the Priority Area these are predominantly losses of relatively small areas of land. In the event of provision being made to extend the project to these areas, the RP is designed to permit these land losses to be measured and replaced or compensated in accordance with procedures and entitlements followed for the Priority Area, rather than necessarily requiring a new RP

As indicated above, land replacement in the command area, both the Priority Area and the projected extension in the southern sector, will be coordinated with farmer managed land adjustment with technical assistance by GRET, so that social and agricultural activity of the affected farmers will be minimised. To the greatest possible extent land replacement will be integrated with the voluntary processes by which the beneficiary population will participate in the development of a new land and water use system.

By contrast with secondary canals and drains, which are public property, land losses to tertiary and quaternary canals and drains in the irrigated area, which will belong to the farming community, will be absorbed in voluntary farmer to farmer land adjustment and are not therefore included in resettlement. This process will, however, as noted above, be coordinated with land replacement for the involuntary loss of land in the secondary systems which form part of each tertiary block.

The changed design of the project, especially in the reservoir, has led to substantial investment in mitigating the impact of the Project through measures to protect villages and agricultural areas. These are mainly in the form of flood embankments on each side of the Stung Chinit river valley reservoir and a major drainage channel to relieve the resultant accumulation of water in dike-protected areas of the Stung Chinit flood plain. These measures will also be augmented by the provision of sluices and irrigation channels from the reservoir to adjoining farm land. The project also makes provision for an assisted agricultural relocation programme in these and other, mainly upland, areas adjoining the northern and southern reservoir dykes, which will be assisted by MOWRAM and the IRC in cooperation with the Provincial Government under the auspices of the Provincial Resettlement Sub-Committee.

Benefits from the project off-setting land losses or other impacts will also be derived from the development of infrastructure under Part B of the Project, in particular by an agreement to include the surfacing and extension of the Stung Chinit left bank flood embankment road and connecting roads to adjoining villages, which will shorten and improve access from relocated farms and neighbouring agricultural areas and villages to Kampong Thmor. The upgrading of the market place at Kampong Thmor will benefit market traders and local consumers from the town and surrounding villages and will provide facilities for the trading of agricultural produce, including tree crops, vegetables and water melon, to the national market

This RP provides a resettlement budget of £1,582,664 calculated to meet the cost of compensation and relocation and of related measures, including surveys and resettlement administration over the life of the Project in the Priority Area. Implementation of the RP will reflect the iterative process of design and development. Actual land losses will be fully inventorised as these systems are designed in 2003/2005, but the RP provides for compensation and land replacement to meet these losses from the resettlement budget based on a selective survey and extrapolation of data.

The Project is a staged operation, creating first the reservoirs, main canal and Stung Chinit reservoir drainage system, and then undertaking the progressive development of secondary, tertiary and quaternary and farmers' field irrigation systems initially in 63 tertiary blocks in the Priority Area and potentially in subsequent development up to 150 tertiary blocks. Each of the tertiary blocks will be self-managed by a WUG, a number of WUGs being grouped into FWUCs for each secondary system.

Resettlement will be conducted as an integral part of the project, and in accordance with ADB and draft National Guidelines on Involuntary Resettlement, and will be directed to restoration or improvement of land rights, housing and other structures and livelihoods of all people adversely affected by the project. It provides for certification of land ownership as a legal basis of land registration and titling of the land of relocated households. The RP also provides the policy framework governing compensation, resettlement and rehabilitation.

The Inter-ministerial Resettlement Committee (IRC), chaired by the Ministry of Economy and Finance (MEF), will have overall responsibility for implementation of the RP and for providing necessary resources, manpower and budget to cover all costs related to implementation including payment of compensation and allowances to APs, monitoring and management.

The IRC has convened a Stung Chinit Resettlement Subcommittee (SCRS) and a Provincial Resettlement Sub-Committee that will work together with the Project Implementation Unit (PIU) in PDWRM and with the MOWRAM Project Coordinator and Design Engineer to implement the RP. The SCRS is chaired by the Governor or Deputy Governor of Kompong Thom province and includes the District Governors and Commune Chairmen and Deputy Chairmen, the village chiefs for affected villages, representatives of relevant provincial departments, and the Provincial Director of PDWRM as Manager of the PIU, MOWRAM Project Coordinator and Design Engineer. The iterative procedure for inventory of losses and resettlement will be implemented by the Provincial Resettlement Working Group on behalf of the Provincial Resettlement Sub-Committee, supervised by MOWRAM Resettlement Unit and the IRC.

The RP provides details of information to APs, consultation with and participation of APs both in resettlement planning and in the monitoring and evaluation of implementation of the RP, and of grievance procedures to be followed for the resolution of any problems encountered by APs in receiving compensation and other allowances and entitlements due to them under its provisions.

Implementation will be monitored and evaluated by the RU and IRC, as well as by the ADB and by External Monitor (EM), who will also organize stakeholders to participate in monitoring activities and assist them in their dealings with the Government. The Provincial Resettlement Sub-Committee and

District, Commune and Village Sub-Committees will assist in these processes and provide a basis for information about and participation of APs and the community in resettlement actions. A grievance procedure has been put in place for which Grievance Committees have been established at each of these levels. The EM has been empowered to assist individual APs in having grievances heard and redressed, and to measure and value properties for purpose of grievance procedures and arbitration.

1 INTRODUCTION

1.1 Description of the Project

The project involves the rehabilitation of the Stung Chinit irrigation scheme in Kompong Thom province and the development of its surrounding rural infrastructure. The primary objectives of the Project are to increase agricultural productivity and farmer incomes, and stimulate the rural economy through the provision of irrigation and drainage, initially for 2,960 ha. wet season and 2,000 to 2,500 ha dry season irrigation, and to provide secure land title, improved and diversified cropping systems to beneficiary households.

The Project will establish the infrastructure which would provide the basis for future irrigation and drainage of a further approx. 4,420 ha. in the Southern section of the potential command area, not developed under present project design and financing.

A further aim (in Part B of the Project) is to improve access and transportation and marketing systems through the rehabilitation of 150 km. rural roads and 6 markets.

1.2 Project Components

The Project will include the following four major components.

a. Farmer Community Organization and Extension Services

This component will address the “software” requirements for ensuring that the provision of water results in sustainable increases in agricultural productivity that benefit local farmers, through the subcomponents, including:

- (i) Land ownership survey and documentation for land registration and titling - using orthophotomapping and ground surveys, the Project will assist farmers to obtain legal title to their lands, including relocation plots, conducted under a contract with GRET by MLMUPC through the Provincial LMUPC Cadastral Department;
- (ii) Water user groups – the Project will assist in the formation and training of Farmer Water User Groups (WUGs); all farmers in each secondary system will elect members to Farmer Water User Communities (FWUCs); and
- (iii) Agriculture extension services and research.

b. Irrigation Infrastructure

Civil works under this component includes (i) replacement of the main diversion weir on the Stung Chinit river, (ii) reconstruction of the embankments of the main canal, including the provision of cross-drainage structures to drain low-lying agricultural areas between the Stung Chinit and its tributary, the Stung Tang Krasaing and to the south of the Stung Chinit valley, (iii) introduction of a fish pass structure to allow annual fish migrations, (iv) development of the reservoir, including major repairs and extensions of existing flood embankments and provision for drainage of protected areas, (v) remodeling and construction of secondary canals and drains (and assistance to farmers constructing tertiary and quaternary canals, ox-cart tracks and drains), along with roughly 60 km of embankment service roads, and (vi) provision of field offices and equipment.

c. Irrigation and Resettlement Management

The scheme management component will establish the Stung Chinit Project Steering Committee and PIU, responsible for overall management of the scheme, and develop a system for farmer managed operations, including voluntary land adjustment, irrigation system management, maintenance and cost recovery through WUGs and FWUCs. The component will develop the capacity of the Steering Committee and MOWRAM staff in all technical and administrative aspects of scheme management, including the implementation of the RP by a Provincial Resettlement Sub-Committee, the management of information and consultation programmes and the provision and regulation of grievance procedures.

d. Supporting Infrastructure

Part B of the Project includes improvement of roughly 150 km of rural roads in and around the Project area to reduce costs of transporting inputs and harvested crops and upgrading of six local markets that currently lack permanent roofing, drainage, access to clean water, truck loading facilities, and sanitation facilities. Final selection of roads and markets will give strong preference to the views of target beneficiaries through surveys and meetings at the village, commune and district level.

The rural infrastructure component of the Project, comprising improvement of rural roads and markets, is not expected to cause acquisition of land and other private assets, as the roadways already exist, and markets will be established on public land selected by the communes.

1.3 Objectives of the Resettlement Plan

The Resettlement Plan has the following objectives:

- (i) Provide a planned and costed programme and a strategy for resettling/compensating APs;
- (ii) Provide implementation guidelines for the strategy to ensure timely acquisition of assets, payment of compensation and delivery of other benefits to APs;
- (iii) Provide a framework for public information, consultation and participation, and grievance redress mechanism in project planning, design and implementation;
- (iv) Identify and provide an estimate of required resources for implementation of the plan; and
- (v) Provide a framework for supervision, monitoring and evaluation of resettlement implementation.

This RP is prepared according to the Cambodian Land Law of 30 August 2001 in respect of land acquisition and resettlement, and to draft national policy and the ADB's Guidelines on involuntary resettlement (November 1995) and the *Handbook on Resettlement: a Guide to Good Practice(1998)*.

1.4 Inventory of losses, DMS and Resettlement Planning

As discussed in greater detail below, the RP is prepared on the basis of an inventory of losses conducted by the MOWRAM RU and the Provincial Resettlement Working Group. This is followed by DMS conducted by the MEF on behalf of the IRC, and jointly with the DMS provides the basis of the RP. These activities are conducted in accordance with the Implementation Schedule set out in Annex F.

The RP includes both impact of works and reservoir flooding and drainage systems, including compensation and relocation of APs in these impact areas, and the impact on households in the secondary canal and drainage systems.

1.5 Iterative survey and compensation in the irrigated area.

In phase with the progressive implementation of the Project the RP will provide for an inventory of losses in the irrigated area to be carried out of secondary canals and drains by the Provincial Resettlement Sub-Committee, with assistance of the PDLMUPC, as each of the secondary systems is surveyed and alignments established.

1.6 Uses of the RP budget.

This RP budget of \$1,582,664 is calculated to be sufficient meet the cost of compensation and related measures, including relocation, and the cost of surveys and resettlement administration over the life of the Project provided below in Table. 11. This includes a 20% contingency budget which will meet additional costs of a relocation programme for farmers affected in the reservoir and related works, not yet determined, and permit any excess of costs to meet compensation for land losses in secondary canals and drains for which alignments have also yet to be determined.

2. PROJECT AREA SOCIOECONOMIC CHARACTERISTICS

2.1. General

Kompong Thom province is a significant rice growing area, with 128,000 ha of paddy and more than a third of total floating rice production nationwide, due to its location on the eastern fringe of the Tonle Sap. The Project area contains a mixture of rice varieties, including early, medium and late varieties as well as some floating rice to the southwest. Current yields in the area are estimated at 1.0 to 1.5 tons per hectare, with a maximum of 2.5 tons and a minimum of 0.5 tons reported by farmers.

A few cash crops are grown in the area, including potatoes, water melon, maize and mung beans, and irrigated with water traps, pumping from the rivers and canal, and from a few hand-dug wells. There has been substantial tree crop, upland rice, cassava and other vegetable development on small parcels in upland forest areas bounding the upstream Stung Chinit and Stung Tang Krasang valleys. Many of these tree crops are grown by farmers in or on the periphery of the irrigation scheme and in the upstream valleys. Households in these areas also take fuel wood from the upstream forest and from the Tonle Sap flooded forest, both for domestic use and for sale. Two logging factories and numerous small-scale village enterprises are engaged in timber extraction and treatment of tropical hardwoods for marketing out of the area.

Fishing is a major source of livelihood and protein to all households, mainly conducted in flooded paddy, but also in streams and ponds. Many households in and around the irrigation project travel seasonally to the Tonle Sap lake shore to live there in temporary shelters and to make a living from fishing and fuel wood collecting during the dry season.

The 1993-94 Socio-Economic Survey of Cambodia provided baseline data to measure poverty in the early years following the end of major civil turmoil. The data revealed that poverty was highest in rural areas, at 40 percent of the population. 46 percent of the poor being in households headed by farmers, and 75 percent in households involved in some type of agricultural activity.

The 1997 Cambodia Socio-Economic Survey reveals almost no improvement in rural areas, with rural households still accounting for nearly 90 percent of Cambodia's poor in absolute terms. These statistics are based on a poverty line of 1,819 Riel per day, equivalent to about \$0.40, which is considered the bare minimum to meet daily caloric requirements plus a non-food allowance.

The 1997 survey also reveals growing inequality in the distribution of income per capita, with urban areas benefiting more than rural areas from economic growth. The 1999 Cambodia Human Development Report notes that the poorest villages in the 1997 CSES are located along the Tonle Sap, an area that includes the Stung Chinit scheme and environs. The DMS for this RP support these data, showing about 30% of households in impact areas as very poor and vulnerable (Table 2) and reveal wide disparity in household incomes. The highest incidence of poverty is among landless households settled in Santuk District on the main canal.

There is, moreover, increasing dependence on and benefit from off-farm earnings in some communes, notably those close to RN and Kampong Thmor, where there is recent settlement on the main canal. The level of diversification and benefit from off-farm employment, including salaried employment, labouring, and notably in communities on the main canal close to the highway, employment of young women of 121 households, 20% of households, in Palaing, Chang Dang, Beung and Chouk Ksach communes, in garment factories close to Phnom Penh, is significant. The evidence of this trend towards waged employment, including employment migration, is important for development policy in Stung Chinit and similar projects and more widely in sustainable livelihood generation.

There are three aspects of poverty and vulnerability which we will examine more closely below, the impact on such households and on their land, structures and livelihoods of project actions; the measures which can be taken to mitigate the impact of the project on them and to restore and improve their assets and livelihoods; and their ability to participate fully in and benefit from project actions, including resettlement.

One conclusion from the analysis of project socio-economic survey and secondary data is that the alleviation of poverty, primarily through improved irrigation in mainly rice production areas, may not be sustainable without parallel actions to diversify land use, communications and produce marketing and to develop off-farm employment.

For these purposes the linkage of the project with other initiatives in the region and sector, and measures to relate land use to wider production, marketing and employment opportunity need to be facilitated in the design and implementation of the RP. The improvement of road access by developing secondary canal embankment roads and the reservoir Left Bank embankment road and their linkage to improved market systems under Part B of the project are an effective step in this direction.

The IRC will need to review and monitor the demand for training and employment opportunity for young members of resettled communities in the light of a need for off-farm employment to contribute increasingly to diversified household incomes.

2.2. The Project Area

The project area is accessible through National Road 6 (NR6) from Phnom Penh. Access to the Stung Chinit weir is through an unpaved village road connecting NR6 at Kompong Thmor, near the bridge on Stung Chinit. The canal bank was however, in disrepair at the time of the RP preparation and could be used only in the fair weather. From Kompong Thmor a village road traverses farmland and the main canal, northeast to the village La'ak (Figure 1, Location X). This road was broken at several places and could be used only by motorbikes. Both the canal embankment road and the La'ak road are being rehabilitated by the project in actions prior to the RP implementation.

To the west of Highway NR6 Kampong Thmor and the project area lie in the fringe of the Tonle Sap transitional zone and are part of the east-west sloping catchment area of the Tonle Sap.

The beneficiary populations for dry season irrigation are resident in villages west of the main canal and mainly lying along NR6. Households of one village may have plots in two or more irrigation areas. Not all the households in these villages, however, own land in the area. Many households from villages close to the main canal also occupy some small land holdings for dry season cultivation east of the main canal, many of which are in the Stung Chinit river valley and will be affected by inundation of the reservoir.

Most of the land which will be inundated (see Figure 2) upstream of the Stung Chinit river is currently used for tree crop, upland rice and vegetable production in the upstream riparian land, but closer to the weirs recession rice cultivation in the flood plain by the households in villages Snao and Taphok and other villages in the vicinity. Village Taphoek will lose virtually all its land between the village and the main canal – about half of its total agricultural land but the village itself will be protected by a dike and its unpaved access road from south of the weir raised and aligned to give protection to the village and to its ricelands to the east.

2.3. Social and Economic Characteristics of the Project Affected Persons

a. Census and Baseline Survey

A cadastral and socioeconomic survey of APs was conducted as part of the DMS and is reported on below. A database revised to take into account project changes form part of the baseline data for monitoring and evaluation of the RP implementation, and will be supplemented by a more detailed baseline socio-economic (KARE) survey which the EM will conduct of a 20% sample of APs².

Valuable findings of the more restricted baseline socioeconomic survey conducted by the 2000 TA mission are provided in Annex D together with the reports on the consultative process and the issues raised at the time.

The presentation of the January 2003 DMS data given below makes an analysis of three main population groupings with the purpose of identifying differences which occur in their characteristics and the impact on them of the Project:

- Households located alongside the main canal;
- Households in the Stung Chinit Valley reservoir , including Taphoek village, Snao village and drainage channel at Palaing;
- Households in the irrigated area.

These three groupings are further broken down in the analysis of household characteristics by commune which is given in Tables 2 to 4 below, for example of the employment of household members and the hire of farm labour, and levels and distribution of household income. This analysis demonstrates significant differences and trends between communities in differing historical, geographical, settlement and land holding circumstances within the project area. In particular, populations settled on the main canal, those in the reservoir and those in the command area are distinctly different in land use and occupational characteristics, the incidence of poverty and its causes, and the impact on them of land acquisition.

b. Household Size

The average household size of the affected population as a whole, given in greater detail by the three main groupings of communes as a note to Table 1, is 5.5.

c. Age-Sex Ratio

The age-sex profile of two main groups of APs is given below in Table 1. Females account for 55% of APs. 30% of AP households are headed by women. Females exceed males in every age-group except 16-40 years. Age and sex distribution of the sample population is shown in Table 1.

Table 1: Age sex profile of APs and Household size, by Main Impact Areas:

Table 1.1 Age-sex Profile of APs in Reservoir, Stung Chinit Riparian Communes

Age/ Commune	Total H/h	Male				Female				Total
		0-5	6-14	15-60	60+	0-5	6-14	15-60	60+	
Krorva	57	11	37	88	7	12	31	105	8	299
Chang Dang	108	13	105	191	9	10	101	203	9	641
Palaing	190	21	129	308	29	15	136	352	25	1015

Total	355	45	271	587	45	37	268	660	42	1955
	%	2.3	13.9	30.0	2.3	1.9	13.7	33.8	2.1	100

Household size: 5.5 persons.

Table 1.2 Age-sex Profile of APs in Main Canal Communes

Age/ Commune	Total H/h	Male				Female				Total
		0-5	6-14	15-60	60+	0-5	6-14	15-60	60+	
Beung Lovea	101	18	78	169	12	14	77	178	13	559
Kampong Thmor	63	5	32	95	4	6	41	116	3	302
Palaing	163	24	111	277	14	33	103	292	21	875
Chang Dang	118	14	61	202	22	20	74	223	22	638
Beung Ksach	143	12	94	260	26	20	84	272	35	803
Chouk Ksach	60	1	32	109	3	1	50	127	331	
Total	648	74	408	1112	81	94	429	1208	102	3508
%		2.1	11.6	31.7	2.3	2.7	12.2	34.4	2.9	100

Household size: 5.4 persons

d. Household Vulnerability and Poverty.

About one third of all households demonstrate one or another aspect of poverty and vulnerability. About one fifth have two or three aspects of vulnerability, including landlessness, having a female head of house, disability, being aged and without any able bodied member of the household, and having an income of less than \$10. Each of these factors of poverty will qualify the AP household for a vulnerability allowance of \$20.

Examination of the data in Table 2.3 shows the substantial difference in landlessness between households living on the main canal and others. Landlessness of households in the main canal, at about 8% of households, and of 39% of households at Palaing, reflects its character as a site for settlement of households lacking land and having a higher dependence on trading and off-farm employment than those in the reservoir areas.

Table 2: Vulnerable AP Households by Impact Areas

2.1 Vulnerability in Households affected by Reservoir, Stung Chinit, Baray District

Commune	No. hh.	Landless	Female headed	Aged	Disabled	Income < \$10	Total incidence of Vulnerability
Krorva	57	0	7	7	2	3	19
Chang Dang	108	0	10	8	1	18	37
Dalaing	190	0	30	17	4	19	70
Total	355	0	47	32	7	40	126

%	100	0	13,2	9.0	2.0	11.3
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2.2 Households affected by Main Canal, Baray and Santuk Districts

Commune	No. Hh.	Landless	Female headed	Aged	Disabled	Income < \$10	Total incidence of Vulnerability
Boeng Lovea	101	10	25	12	8	46	101
Kampong Thmor	63	2	9	6	3	23	43
Palaing	163	39	24	22	2	29	116
Chang Dang	118	0	24	24	8	26	82
Beung	143	0	20	24	2	12	58
Chouk Ksach	60	0	14	10	2	6	32
Total	648	51	116	98	25	142	432
%	100	6.5	17.9	15.1	3.9	21.9	

e. Household Income

The 2000 TA reported that average monthly household incomes vary considerably over the project area. 36 (37.1%) households earned less than the poverty line, then calculated as 50,000 R per month. 44 (41.2%) households earned between 50,000-100,000R per month. Only 2 households earned more than 200,000R per month. 13 households among these were women headed households. The majority of the women headed households (45%) fell into the lowest income group.

These findings are repeated in the 2002 DMS, with specific communities showing extreme levels of poverty. 129 out of 164 households on the main canal in Santuk District, 79%, between the Stung Tang Krasang and Stung Chinit weirs, have incomes below the poverty line, now set in national resettlement policy at \$10 per month, R.39,000. These are mainly landless households, many dependent on, fishing, fuel wood and bamboo collection and trading. Allowing for the possibility of distortion in responses to the DMS household survey questionnaire, this level of poverty presents a problem for resettlement and a need to examine other measures than compensation and the replacement of houses to improve their livelihoods.

Table 3 provides the total monthly income, including agricultural production and off-farm employment and remittances of household members engaged in migrant labour, by village and commune.

Table 3: Monthly Household Incomes.

Santuk District, Main Canal Impact Areas

Commune/ Village	No. of hh.	0 - \$10	\$10 - \$24	\$25 - \$50	\$50 - \$124	\$125 +
Beung Lovea						
Sang Kruosh	13	11	2	0	0	0
Tberng	19	19	0	0	0	0

Beung Lovear	33	23	5	2	3	0
Kg.Thmor						
Looak	36	28	5	2	1	0
Khverk	34	29	3	2	0	0
Snao	29	19	8	2	0	0
Total	164	129	23	8	4	0
%	100	78.7	14.0	4.9	2.4	0

Baray District, Main Canal Impact Areas

Commune/ Village	No. of hh.	0 - \$10	\$10 - \$24	\$25 - \$50	\$50 - \$124	\$125 +
Palaing						
Prey Sro Nger	90	6	49	26	8	1
Trosh	5	0	1	2	0	2
Tardouk	12	4	8	0	0	0
Tropaing Chrey	56	17	27	9	3	0
Chong Doang						
Kam Paoy	46	16	18	8	3	1
Tuol Sarlar	5	1	1	2	1	0
Por Pich	63	15	24	15	5	4
Tuol Domnak	5	2	0	2	1	0
Boeung						
Boeung Cheung	70	13	22	24	11	0
Boeung Candal	31	3	18	8	2	0
Boeung Tboang	42	9	20	7	5	1
Chhouk Ksach						
Doan Tom	44	3	23	8	2	0
Chan Lohorng	8	2	3	2	1	0
Chhouk Ksach	16	4	8	1	3	0
Total	493	95	222	114	45	9
%	100	19.3	45.0	23.1	9.1	1.8

Baray District, Stung Chinit Reservoir Area

Commune/ Village	No. of hh.	0 - \$10	\$10 - \$24	\$25 - \$50	\$50 - \$124	\$125 +
Krovar						0
Kg.Sdarch	51	3	26	21	1	0
Roung	6	0	4	2	0	0
Sub-total	57	3	30	23	1	0
Cherng Derng						
Sam Povioun	75	23	31	19	1	1
Prey Dom	33	4	24	2	3	0
Sub-total	108	27	55	21	4	1

Palaing						
Palaing	31	6	16	9	0	0
Tarphok	60	13	34	10	3	0
TarDouk	25	6	11	8	0	0
Prey Sro Nger	28	5	11	12	0	0
Tro Paing Chrey	22	3	16	2	1	0
Trosh	24	2	11	6	4	1
Sub-total	190	35	99	47	8	1
Total	355	65	184	91	13	2
%	100	18.3	51.8	25.6	3.6	0.6

Households in impact areas falling below the poverty line will be provided with an allowances of \$20 per household for each factor of vulnerability, under the provision for special assistance to vulnerable households.

While the IRC has indicated in discussion on compensation and other assistance that it opposes funding for training (for which \$200 per AP household was included in the 2000 Draft RP and is now omitted), the possibility exists for assistance in training, employment creation and job finding, and for credit, in parallel projects, for example, the EC ECOSORN and the ADB Tonle Sap Livelihoods Generation Subproject and in NGO projects. IRC will discuss with Provincial Sub-Committee, affected communities, other agencies which receive grant aid funds from different donor countries and which operate their programs in Kampong Thom Province, to find the focal solution to help these APs with the assistance of the ADB Project Resettlement Consultant, so as to improve their level of livelihood and raise them above the poverty line. Alternatively the IRC will recruit an independent agency with experience in training programs to provide training to APs and their families. The IRC will determine the cost of this program and fund it from the contingency funding or from a separate budgetary allocation and will report to ADB on its specific provision for this allocation and arrangements during June/July 04.

e. Employment

The data on employment given below shows about 40% of all AP households deriving substantial income from off-farm employment, including salaried jobs, construction and factory labour. This includes a growing trend for employment of household members in migrant labour, including work of young women in garment factories. It suggests that a skills development and job-finding programme operated through the Provincial Government would be an effective element in the resettlement programme and would be cost-effective, contributing to economic and resource development of importance both to the irrigation programme (reducing pressure on land and household agricultural production) and more widely in rural development. In view of the IRC position, this has not been included in resettlement costs, but, as indicated above, cooperation can be sought with other projects and organizations more directly concerned with livelihood generation, training and credit, which could include both formal training programmes and apprenticeships linked directly to employment.

Table 4 shows the breakdown of main occupations of household members. Agriculture related activities, fishing and forestry are secondary occupations which members of most households are engaged in for part of the year, and are probably under-reported in the DMS.

Table 4. Main employment of all household members*

*These figures are for all household members, so, while the percentage of household heads working primarily as farmers is a fairly accurate percentage, that for other occupations represents household members per household, and exceeds 100%.

Table 4.1 Employment of Households displaced by Reservoir, Stung Chinit, Baray District

Commune	No. hh.	Farmer	Vender	Laborer	Salaried	Transport	Factory
Krorva	57	55	15	7	2	3	2
Chang Dang	108	105	52	4	4	0	8
Dalaing	190	180	25	32	5	2	14
Total	355	340	92	43	11	5	24
%	100	95.8	25.9	12.1	3.1	14.1	6.8

4.2 Employment of Households displaced by Main Canal, Baray and Santuk Districts

Commune	No. hh.	Farmer	Vender	Laborer	Salaried	Transport	Factory
Boeng Lovea	101	88	10	17	2	2	5
Palaing	163	121	17	30	30	4	29
Chang Dang	118	106	17	3	2	7	42
Beung	143	85	23	10	4	4	39
Chouk Ksach	60	58	4	0	1	0	14
Total	648	519	75	66	40	17	129
%	100	80.1	11.6	10.2	6.2	2.6	19.9

Agriculture is the main employment for most APs, but this has changed in recent years. Households in central Communes such as Palaing, Chang Dang and Beung where a substantial proportion of APs with houses and land on the main canal – of particular significance to options for livelihood replacement under the RP and to policies for economic diversification – have cash incomes from petty commerce, salaried employment, laboring and, in about 25% of these households, employment of female household members in garment factories on RN6 close to Phnom Penh (Table 4). Only 80% of households have members who are farmers.

For purposes of planning actions to mitigate land acquisition and losses of livelihoods we should note particularly a correlation between landlessness and high levels of off-farm employment and income, for example at Palaing, Beung and Chang Dang commune households on the main canal.

More generally, the DMS and socio-economic survey suggest that both extreme poverty and diversification of employment occur in settlements along the the northern sector of the main canal and near to Kampong Thmor. The level of off-farm employment and labour migration also suggest that off-farm and migrant employment are of growing importance in areas where increasing land scarcity and population pressure may leave little room for agricultural diversification away from rice production,

This situation on the main canal is in contrast to the more even distribution of income, settled conditions and relative absence of poverty in households which will be displaced in the Stung Chinit Reservoir, which have relatively large land holdings in upland tree and vegetable crop and some rice production, and have secondary sources of primary production and incomes from forestry and fishing. In these areas farming is the predominant activity with 96-97% of households having farming as a principle activity, but this primary activity is in most households supported by secondary and tertiary occupations, some of which – such as timber felling and processing – are substantial income earners.

In these riparian upland areas displaced by the Stung Chinit reservoir, as proposed below, adequate compensation for house and land loss and other assistance to obtain and cultivate alternative land plots in neighbouring upland is seen by the concerned APs as providing them with adequate means to restore or improve existing livelihoods. The extent to which this development would be based on existing tree crop development, and especially cashew, is indicated in the figures for trees being lost, about 3,000 cashew alone, in the Stung Chinit reservoir and substantial plantings in the relocation areas, notably in the Stung Chinit riparian area. Incomes will be assisted by improved marketing on flood embankment roads, especially that on the Left Bank Flood Embankment, and the upgrading of Kampong Thmor market under Part B of the Project. There is in the view of the Provincial Government a potential for commercial market development, especially for tree crops, of which cashew is the most promising.

Land losses in or close to Stung Chinit reservoir, notably at Snao and Taphoek, and in the area of Palaeng along the drain from the reservoir area, will be compensated for this land loss, and will also be assisted to obtain replacement land in vegetable and fruit tree production upland areas along the southern and northern flanks of the reservoir. The design and planning of this relocation and income generation programme will be conducted as part of the iterative resettlement planning process during June 2004 to May 2005 by MOWRAM Resettlement Unit. This will be assisted by the Provincial Government and the Project Resettlement Consultant. The relocation programme will be the subject of a time-bound plan funded by the IRC from the contingency provision which will be the subject of an outline report to ADB in July 2004 and progress reports during August 2004 to May 2005.

Rice is the main crop cultivated by farmers in both rain-fed and irrigation areas along the main canal, and in Snao and Palaing. Farmers at Taphok, in the Stung Chinit reservoir but close to the weir and access road, who will lose about half of their agricultural land, are rice and vegetable producers. Households in the Stung Chinit and riparian areas, which will be inundated by the reservoir, are vegetable and tree crop farmers, with some upland rain-fed rice, as well as being foresters, both of timber from large hardwoods and of fuel wood. There is a small group of some 22 households on the main canal which are bamboo traders, and who are included in the households in the Northern sector of the main canal discussed above as having incomes below the national poverty line.

While the TA study reported that only 6 households employed labor for assistance in farming activities, the DMS two years later records 81 farmers out of 648 APs on the main canal employ hired labor, and this appears to be associated with off-farm income of the household head or family members. The trend towards a significant proportion of households engaged in diversified labor and off-farm employment, as an alternative or additional source of income to that of household production in any more intensive or diversified agriculture, has implications for Project strategy as well as for wider economic planning and livelihood development for the Tonle Sap region. The number of young women working in garment factories close to Phnom Penh from Palaing, Beung and Chang Dang (Table 2) is a major factor in the economy of their households. This number of migrant workers would increase with improved access from villages and the upgrading of RN6, and would be accelerated if manufacturing continues to develop in greater Phnom Penh and particularly with any location of industry in Provincial towns. Improved education and training would contribute directly to this trend.

f. Land Tenure

Most respondents with access to rice land have less than one ha per family. Households with upland *chamcar* plots in the reservoir have between 2 and 6 ha. Data in the 2000 TA study indicated an uneven distribution of land ownership with top 10% of households in the community

accounting for ownership of 40% of the cultivated land and the bottom 40% accounting for only 12% of the land.

Land tenure is a growing concern of the respondents as both land shortage and a land market develop, and this is reflected in the decision to provide land title for plots in the irrigation area following land adjustment and consolidation, and for relocated land holdings in the irrigation area. Farmers have in general been using their land for cultivation for more than 5 years, or have legitimately acquired land rights through inheritance or purchase recognized by the Commune, so that they are protected under the 30 August 2001 Land Law, as having rights to full ownership of the land; these rights assume under the Land Law the provision of title in due course, as do those of the great majority of Cambodian farmers, and do not impede land transactions in the market. Subject to registration as APs, all households in the DMS are recognized as having ownership and as being fully entitled to any compensation and other allowances. Some households have a certificate of land ownership issued by the Commune Council under the authority of the District Land Office, and this practice relates particularly to people engaged in land sales and purchase.

Villagers who have been living in the area since 1979-80 were allocated land titles by the local commune, but many of these have since been lost or destroyed, and these have now been replaced by the provisions of the 30 August 2001 land Law. No distinction is made in land rights in the RP and the Entitlement Matrix between households having a form of title and those with none. All will receive land title under the programme for registration and land adjustment, including households acquiring land through the use of compensation to purchase land in upland locations or in neighbouring rice lands. .

g. Minority Groups

There are no ethnic minority groups in the area-affected area. All the households are Buddhists and of Khmer nationality.

3. Impacts of the Project

3.1 Project Benefits

The Project is expected to provide a range of direct and indirect benefits to the beneficiary population. At present only one rice crop is cultivated in a year with the crop season (May to December) varying between 3 to 6 months. Productivity is very low. In the 2000 TA study 55.7% of farmers reported a yield of less than 1 t/ha. Only 7 households reported a yield of between 1-1.5 t/ha.

The 2002/2003 DMS and socio-economic survey have confirmed these yields. They have also demonstrated that population pressure on the land, and particularly on irrigable paddy, and consequently the fragmentation of holdings and incidence of non-viable holdings is increasing. One consequence of this process is that virtually all farming households have a deficit in rice available to feed the family from their own production for from one to six months of the year. 80% of households have a rice deficit for 3 months or more.

Irrigation for wet season cultivation on 2,960 ha and dry season cultivation on 2,000 to 2,500 ha will provide an opportunity for higher yields in the wet season, opportunities for cultivation of a second wet season rice crop, and new dry season crops including vegetables and legumes. There will also be benefits to paddy fish yields, which comprise the most important source of protein in the project area.

Improved rural roads will result in lower vehicle operating costs and agriculture producer surplus. The construction and rehabilitation of irrigation works, roads and markets will provide temporary direct employment for people living in the Project area, and improve incomes and employment opportunity through better marketing and prices for agricultural produce. This will include creation and surfacing of the Stung Chinit left bank flood embankment as an access road and its connection with the surrounding villages and road network, which with related flood protection, will improve access to an area of some 20 sq. km. of residential areas, tree crop and vegetable production and marketing in the Stung Chinit valley

The formalization of land holdings and provision of land titles to the beneficiary population, which will include existing and resettled populations, will result in increased security of tenure and asset formation.

3.2 Land Acquisition and Inventory of Losses

55 houses and 28 small trading stalls will be displaced. Of these, 16 households will lose their houses in the reservoir. 39 households located along the main canal, all except one of which are small thatch and local timber, will have their houses displaced, to be rebuilt close by. There is one substantial modern style house built of masonry and with a tiled roof which will be affected on the left hand bank close to the road bridge near Taphoek.

28 households engaged in selling goods and food from small roadside stalls along the right hand embankment road are in the northern sector of the main canal. They will have their stalls moved and will be compensated and assisted to relocate them close by at suitable sites.

A total of about 2.0 ha. residential land, will be affected on the main canal, and this is mainly on the canal ROW. House and garden plots of the 16 houses on the Stung Chinit river which will be inundated will be replaced by the APs concerned within allocations for agricultural land replacement.

Two bridges and some 400 m. road will be inundated further upstream in the Stung Chinit valley, and will be replaced under the provisions of the RP.

Two industrial structures are affected. A logging factory between Taphoek village and the spillway and some 4 ha. land belonging to the factory will be partially inundated. Steps have been taken to mitigate this impact by careful siting of the embankment dike and road. The transport yard of a logging factory upstream on the Stung Chinit, already subject to flooding, will be inundated but the mill will benefit from the rehabilitation of its main access road and bridge. The IRC is undertaking a detailed study of losses or damage to the two structures, compensation for which will be met from the contingency budget.

The widening and embankments of the main canal gives rise to land loss of 41 ha. to 246 households in the Priority Area from its head to Preysro Nger bridge. The COI is of average 100 m. width, some of which is the existing Government Right of Way (ROW).

The major land loss is in the main Stung Chinit reservoir and in the corridors of drains and embankments related to the reservoir, of 419 ha. to 584 households. These include losses of land in the villages of Taphoek and Snao, which have most of their rain-fed rice and vegetable producing land in the reservoir close to the main canal. A majority of the households of these villages will lose most or all of their land. Compensation will, in consultation with the concerned communities, permit farmer self-managed relocation in neighbouring upland with project support for land clearance and development of tree plantations and of irrigated vegetable gardens.

Similarly provision has been made for compensation for an approximate number of 200 APs potentially suffering some loss of land use in about 120 ha. rice land in a secondary storage area in the Ochork stream, a tributary of the Stung Chinit which joins the system through control gate close to Taphoek. Control of the inundation caused by the creation of an area protected by the Left Bank flood embankment on the Stung Chinit reservoir will create a secondary reservoir as part of flood management in the farming area in the Ochork valley to the south of the dike. This impact may be reduced or obviated by management of the outlet gate, or by changed cropping patterns. The exact number of people affected will be known only when further design and experience of water management, scheduled to be done in the secondary reservoir during 2004, have determined the extent and periodicity of flooding and a DMS conducted at that time of APs.

1,160 households will be affected by the project in the corridor of impact of the main canal and of the drains from protected land, and in the reservoir and its embankments. There are a further approximately 400 households in the corridor of impact of secondary canals, drains and embankment roads, for which an inventory of losses and socio-economic survey will be conducted during implementation in the irrigated Priority Area. The RP also makes provision for losses to approximately 200 households in the Ochork tributary for which measurement of any loss of land use in seasonal inundation can only be done following the completion of the reservoir and the extent of minimisation of impact by management of flood control is known during implementation.

3.3 Land acquisition, replacement and compensation.

Land acquisition and compensation or land replacement will be conducted in consultation with APs and with farmers in general and village and commune leaders in phase with the development in each block of the irrigation and drainage system and of voluntary land adjustment. Each tertiary block consists of land of approximately 80 to 160 households. About 6 ha. (10%) of existing irrigated land in each 60 ha. tertiary block will be lost in the creation of secondary, tertiary and quaternary systems and access tracks.

Of this land loss, 4.0 ha. (6%) in each tertiary block, required for the creation of tertiary and quaternary canals and drains and ox-cart tracks, will be absorbed by farmers in voluntary land adjustment. Farmers have in general agreed on acceptance of this land loss and its absorption in land adjustment in return for project irrigation benefits as part of the participatory strategy adopted for the Project. Land adjustment includes the equalization of losses among all block farmers to alleviate the losses of those in the impact area of canals and drains in each tertiary block.

About 2.0 ha. in each block (4%) will be acquired for secondary systems and embankment roads which will be the property of Government and the land loss for this acquisition will be compensated. Compensation is included as an entitlement of the affected households in a Resettlement Plan.

The preferred method of compensation for land losses within the irrigation system in the impact area of secondary canals and drains is by means of the inclusion of these land losses in voluntary land adjustment within the tertiary block or blocks where the land is located, agreed to by the affected farmers and by all other farmers in the block (see below, section 3.5).

b. Residential Land

Loss of residential land is mainly that of 55 houses which will be displaced on the main canal, and in the impact area of the south reservoir embankment and of 16 houses in Krova Commune in the upstream Stung Chinit reservoir area, which will be inundated by the reservoir. Total residential land lost is about 7.0 ha, and this will be replaced as part of the compensation package, relocation being nearby along the embankment for houses along the main canal, and within the agricultural land replacement package in reservoir areas.

c. Commercial Land

The project will impact commercial or industrial land at two timber factories (logging mills): that close to Taphok village between the village and the spillway, where both the factory and about 4.0 ha. land will be inundated; and in some potential loss of yard space at a timber factory at the upstream limit of the Stung Chinit valley reservoir, and possibly in loss of road and bridge access.

The possibility of measures to protect and avoid impact to the logging factory at Taphok has been carefully examined with the Project engineers, but is ruled out by the strength and turbulence of the flow of water in the reservoir to the spillway, so that compensation is proposed as the only option.

Provision will be made from the Compensation Costs Contingency Fund for compensation, to be negotiated by the IRC.

3.4 Impacts on Structures and Other Assets

A total of 55 houses and 28 small trading stalls will be displaced and compensation provided for their relocation and reconstruction. 38 houses are wood and thatch. 16 are substantial timber built houses with tiled or corrugated iron roofs. One on the main canal close to Taphok village is one permanent modern brick and tile house of high quality.

As indicated above provision has been made for compensation for an inundated logging factory buildings and yard space at Taphok, and for lost land at an upstream logging factory.

e. Other Miscellaneous Structures and Fixed Assets

The project will affect one grave, which is a masonry stupa in a private garden, and which will be compensated at replacement cost, including the costs of the ceremony.

f. Loss of Crops and Trees

5,879 trees, mainly cashew nut, coconut and palm, with some citrus, mango and banana, will be displaced or inundated. They will be compensated at the cost of five years production and new high quality saplings in accordance with the table of compensation rates set out below, Table 10

g. Loss of Incomes and Businesses

22 bamboo producing households located on the eastern bank of the main canal will be displaced from their present location. At their present location, these households carry out collection from upstream areas and sell bamboo products to outside traders. With displacement, their source of incomes would be adversely affected by any disruption of trade because of relocation but they will be relocated near the river and close to the embankment road.

h. Loss of Electricity and Water Connections

There will be no loss of water or electric connections to any of the APs.

i. Impacts on Public Infrastructure Facilities

400 m. of road upstream of the Stung Chinit valley reservoir and two bridges close to a timber mill are subject to flooding and will be inundated. Since this situation is a long-term one arising in most years, it is proposed that they should be upgraded and replaced under Part B of the Project

j. Temporary Impacts

The proposed civil works including widening of secondary canals, construction and improvement of drainage channels and service roads will have some temporary impacts on the adjoining farming areas, for which provision for compensation is made in the Entitlements Matrix; this is not costed but would be met, if needed, from the contingency budget, since this impact will be avoided to the largest possible extent and will be minimal. Proposed improvements of markets and rural roads will be carried out on the existing market land and rights of way, so no significant temporary or permanent impacts on the population are envisaged.

3.5 Requirements for Land Replacement

In discussions with APs and with the IRC and Steering Committee and with the Governor's Office, the possibility of land for land replacement by Government has been carefully examined for each of the differing impact areas. The view of APs and village headmen, and of the IRC and Steering Committee and the Provincial Government is that this is impracticable because of the absence of any land not privately owned and because of the distortions to the land market which this would bring about. APs believe that they are able to obtain suitable land by purchase from their own sources on the basis of adequate cash compensation, and that this can more easily provide for land development and other income generation. This is reflected in the allocation of cash compensation, at the rates set out by land characteristics below, Table 6. Specifically in the command area, replacement of land losses to secondaries and embankment roads, which become public property and where losses are required by law to be compensated or replaced, land replacement will wherever possible be done by absorption in land adjustment in each tertiary block, and the land provided by other farmers will be subject of compensation in this case to the contributing farmers, see above section (a).

As noted earlier, replacement of land or compensation is required for the approximately 4% (2 ha. in each 60 ha. tertiary block) lost to secondary canals and drains in the irrigation area, for which costing of an estimated 126 ha. total land loss is included in this RP.

Wherever possible land loss to APs in the construction of the secondary system will be replaced in cooperation with all farmers from land within the tertiary block. A particular reason for preferring this means of restoration of land rights is that there is limited or no opportunity to replace the mainly very small areas of rice paddy which are affected on the local land market. A second reason is that of equity: regardless of any cash compensation, the farmers affected will lose an element of participation in and benefit from the irrigation and changed land use system. Apart from the loss of farmland, the irrigation development which will both bring early benefits to the farm households and bring increasing value to serviced land as the irrigation and improved access roads system is put in place needs to be taken into account in the restoration of and improvement to livelihoods of which these farmers will otherwise be deprived.

Farmers losing land to the secondary system will therefore have the option of cash compensation or of land replacement within the tertiary block. Farmers, in practice all of the farmers in the tertiary block, providing land to meet this involuntary loss in the secondary system will in that case be compensated for this loss, payment being made to the FWUC for the benefit of the

FWUG in the concerned tertiary block for use in the FWUG development and management of the irrigation system. The system and guidelines for this compensation to farmers contributing land to meet losses in the publicly owned secondary system and embankment roads will be included in a Prakas setting out the rights and obligations of the FWUC and FWUGs and deriving its authority from the existing Prakas 306, Circular No. 1, June 2000, of MOWRAM.

Losses of 419 land in the reservoir will be compensated in cash at market prices. Land losses are planned to be replaced by farmers themselves under arrangements for compensation and farmer managed relocation in upland rice, vegetables and tree crop producing areas in the immediate vicinity above the reservoir level. The project provides for farmers relocated in these areas to have access to irrigation from the reservoir.

The iterative process of inventory of losses and compensation or other resettlement is also directed to managing impacts of the project which will become clear only during implementation. For example, there is potential inundation of seasonal rice production areas in a secondary reservoir in downstream riparian areas of Ochork stream which extends southeast from the western end of the South Flood Embankment Dike near Taphoek village, identified during the consultants' Supplementary Analyses, and not therefore known at the time of the DMS. This potentially affects approximately 120 ha. land used by villagers from seven villages, but is not thought to lead to major land loss or loss of livelihoods and is subject to possible control measures which would lessen or avoid any loss of land use.

Continuing studies by MOWRAM Resettlement Unit and MEF and the design engineers indicate that benefits from the creation of this secondary reservoir may outweigh losses and the change may be one of seasonality and cropping system, rather than outright loss. A number of options exist and will be examined which may obviate the loss of productive land use of these APs. The figures of any land and households affected at different contour levels are not yet known. The RP includes provision for a further DMS in these areas and for design of the reservoir operation and land use development planning (following the iterative procedure for detailed design and survey and inventory of losses during implementation described above. The RP includes compensation provisionally estimated to be for the loss of 120 ha in the downstream Ochork valley below 248.50 m.a.s.l. but it has been agreed with the IRC that any additional losses and compensation determined during implementation can be met from the resettlement contingency budget.

The Project is a staged operation, creating first the reservoirs, main canal and Stung Chinit reservoir drainage system, and then undertaking the progressive development of secondary, tertiary and quaternary and farmers' field irrigation systems initially in 63 tertiary blocks in the Priority Area and potentially in subsequent development up to 150 tertiary blocks. Each of the tertiary blocks will be self-managed by a WUG, a number of WUGs being grouped into FWUCs for each secondary system.

Table 6: Summary of Losses

Items	Unit	Quantity	APs (No. of HH)	Remarks
Land				
Residential	Ha.	7.0	55	To be compensated through house sites in agricultural land replacement, except for one modern house and

Agricultural: Irrigable Rice land	Ha	100	1.677	site on main canal
Other Rice land		73		Including land of 400 APs in the irrigation area.
Upland (chamcar)		951		Including land of 200 APs in the Ochork tributary valley for which a DMS will be conducted during implementation.
Structures (Residential)				
Houses	Houses	55	55	39 thatch and wood, 16 well built timber houses, one modern masonry and tiled house
Other Structures (wells, Boundary wall,etc.)	Stupa	2	2	Masonry stupas located in private gardens.
	Wooden fence	160		
	Concrete fence	37		
	Msq. Pump well	1		
Structures (Shops & Commercial)				
	Small thatch and wood stalls	28	28	
	Logging factory, No.	2	2	One upstream on Stung Chinit losing an area of factory yard One at Taphok inundated and requiring full compensation of factory and yard.
Loss of Water and/or Electric Connections	No.	None		
Tenants	No.	None		
Infrastructure	Bridge No.	2	NA	To be provided under Part B.
	Road Km.	0.4		
Trees and crops				
Rice and vegetables	Ha.	None	-	None
Trees				APs permitted to harvest before acquisition
Fruit and cashew	No.	6,421		Mainly cashew in the reservoir
Timber or shade		605		

3.6 Mitigating Measures

APs at Taphok, Snao and other villages in the reservoir and in the COI of the drain will be assisted under the resettlement programme, by compensation for land loss calculated to permit

farmer managed land acquisition and development and through a planned and time-bound relocation and agricultural relocation programme.

Assistance by the Provincial Resettlement Sub-Committee will be given to mitigate the loss of rice and vegetable producing land by facilitating this relocation in upland to the East within 5 to 6 kilometers in sites capable of being irrigated from the reservoir. Following discussions with the concerned farmers and consultation between the MOWRAM Resettlement Unit and the consultants, provision has been made in the reservoir and embankment design for the creation of sluices and irrigation channels from the reservoir to provide for some irrigation in these relocation areas

When the weirs have been in operation, some areas of village La'ak (Figure 1, location have previously during the Khmer Rouge period been inundated. However, topographical survey and orthophotomapping and more detailed field investigations carried out during the initial stages of the project implementation have shown that it is possible to protect these areas with embankments. Repair and extension of the right bank Stung Chinit flood embankment along the northern side of the Stung Chinit valley will prevent impact in these areas. Existing agricultural land use east of the main canal on the south of the Stung Chinit will be protected by the reconstructed eastern main canal bank.

4. POLICY, ELIGIBILITY AND ENTITLEMENTS

4.1 Relevant International Agreements, Acts and Bylaws

a. Resettlement Policy, Land Law and Legislation in Cambodia

Resettlement policy in Cambodia rests on two main sets of guidelines: that of the ADB Handbook and Guidelines, 1998, based on its Policy on Involuntary Resettlement of 1995, which are agreed in the Loan Agreement as having precedence in any matter of policy or practice regarding involuntary resettlement in this and other ADB supported projects; and the draft national policy and guidelines prepared for the IRC as a consultative document under ADB RETA 5935. The latter have been followed in the key matter of establishing an entitlements matrix, set out below, and the RP in general has been prepared to follow and further strengthen and implement the national policy.

RGC has formulated, with ADB assistance under RETA 5935 a draft National Policy on Involuntary Resettlement. This is in line with the ADB Guidelines and affirms that APs will be fully compensated for all assets lost as a result of water resource and other infrastructure projects, regardless of whether APs have formal title to the land, which they occupy and use. The 30 August 2001 Land Law establishes this right of ownership based on occupancy regardless of the possession of title. In 2004 this draft National Policy will be developed into a decree or sub-decree with ADB technical assistance.

The 30 August 2001 Land Law has established specific principles and a statutory basis of land law in the context of public acquisition of land and fair compensation. Annex E provides the key clauses of the Land Law applicable in resettlement aspects of the Project.

b. Asian Development Bank's Policy on Involuntary Resettlement

Observance of ADB's Policy on Involuntary Resettlement³ is part of the Loan Agreement, which states that where there is any conflict between this and national policy or practice, ADB's Policy

³ Set out in ADB Handbook on Involuntary Resettlement: A Guide to Good Practice, 1998

takes precedence. The basic guiding principle of the ADB's Policy on Involuntary Resettlement is that the adverse impacts in a project are avoided or minimized, and the resettlement measures are conceived and executed as development programs and affected persons are given opportunity to share project benefits. The objective is to assist displaced persons in their efforts to restore or improve their former production levels, income earning capacity, and living standards.

The Policy further stipulates that customary and formal rights are recognized equally in providing assistance and in devising criteria for entitlements and procedures for compensation and other resettlement assistance. The policy further states that the absence of formal legal title to land by some affected groups should not be a bar to compensation and that particular attention should be paid to the needs of the poorest affected persons including those without legal title to assets, female-headed households, the landless, aged households and other vulnerable groups, such as indigenous peoples, and appropriate assistance provided to help them improve their status.

According to the ADB's Handbook of Resettlement: A Guide to Good Practice, preference should be given to land-based resettlement options especially in case of loss of productive assets. The Handbook further requires that compensation for lost assets must be made on the basis of replacement cost.

4.2 Principles of Resettlement

The following principles of resettlement and compensation will apply in the Stung Chinit Irrigation and Rural Infrastructure Project area:

- (i) Acquisition of land and other assets, and resettlement of people will be minimized as much as possible.
- (ii) All APs residing in, working, doing business, or cultivating land, or having rights over resources within the project area as of the date of the DMS survey (Cut-off Date) are entitled to compensation for their lost assets, incomes, jobs and businesses at replacement cost. Those displaced by the project will be provided additional relocation assistance and offered support during the transition period. Displaced persons will also be provided with appropriate development assistance in order to improve or at least restore their incomes and living standards to pre-project levels. Lack of legal rights will not bar the AP from entitlement to such compensation for his/her lost assets (improvements including structures, houses, crops, trees, etc.), businesses and incomes, and rehabilitation measures.
- (iii) All previous claims and unresolved issues related to tenure status and ownership of land and other assets on each sub-project or components will be resolved prior to initiating any new land acquisition measures on the respective sub-project or component.
- (iv) APs will be entitled to full compensation for the entire affected assets at replacement cost, and in the case of loss of productive assets, incomes, jobs and employment, to additional development assistance that allows them to enhance or at least maintain their standard of living.
- (v) APs affected by partial impact on their assets i.e. partial loss of land or structures and the remaining assets remain viable for continued use, where the livelihood is not land-based, the compensation for the affected assets would be paid in cash.
- (vi) The compensation and rehabilitation measures to be provided are: (a) compensation at replacement cost for houses and other structures without depreciation and without deductions for salvaged material; (b) compensation at replacement cost for the loss of other fixed assets; (c) compensation at

- replacement cost at current market value of land of equal agricultural productivity, residential quality and business potential, as the case may be, at location acceptable to the APs; (d) cash compensation to affected businesses, means of livelihood and incomes; (e) rent allowance and assistance in finding alternate rental accommodation to tenant AP; (f) transport allowance and dislocation assistance during transition; and (g) rehabilitation measures and income restoration programs such as assistance with access to vocational training, credit facilities, job opportunities and other assistance for self-employment; (h) special assistance and allowances for APs belonging to vulnerable groups.
- (vii) Replacement agricultural land, premise/business plot will be as close as possible to the land that was lost and/or acceptable to the APs. All replacement land for agriculture, residential and businesses will be provided with secured tenure status and without any additional cost, taxes, and surcharge to the APs at the time of transfer.
 - (viii) Plans for acquisition of land and other assets and provision of rehabilitation measures will be carried out in consultation with the APs who will receive prior information of the compensation and rehabilitation options available to them.
 - (ix) Where in a project cultural minorities or indigenous peoples are affected, the social and economic benefits they receive would be in harmony with their cultural preferences and would be decided in consultation with affected communities.
 - (x) Any acquisition of, or restriction on access to resources owned or managed by APs as a common property will be mitigated by arrangements ensuring access of those APs to equivalent resources on a continuing basis.
 - (xi) APs whose land or assets are temporarily taken by the works under the project will be fully compensated for their net loss of income and damaged assets, the latter at replacement cost. Assets which are only temporarily affected or inoperable, will be compensated at 10% of the replacement cost of affected assets provided that such assets or properties are required by the project for a maximum of 3 months. In case the assets are required by the project for periods longer than three months, the amount of compensation should be negotiated with the owner of said property.
 - (xii) The previous level of community services and access to resources will be maintained or improved after resettlement.
 - (xiii) Financial and physical resources for resettlement and rehabilitation will be made available as and when required.
 - (xiv) The RP will provide for a planned resettlement programs and will include adequate institutional arrangements to ensure effective and timely design, planning, consultation and implementation of compensation, resettlement and rehabilitation measures. Project authorities will ensure effective coordination with relevant agencies for implementation of resettlement.
 - (xv) Adequate arrangements will be made for effective and timely supervision and internal monitoring by RGC, monitoring by the ADB, and external monitoring and evaluation by an independent non-governmental agency of the implementation of the resettlement and rehabilitation measures.

4.3 The Cut-off date of the Project

The census and baseline survey was completed on 15 January 2003. Therefore, for purposes of entitlements to project affected persons, the cut-off date is established as 15 January 2003. A period of two months, to 15 March 2003, is permitted for persons absent during the DMS or

otherwise excluded who have legitimate land rights, to register their claim to eligibility with the PIU.

4.4 Eligibility

Project affected persons (APs) includes anyone who at the cut-off date of the project was located within the project area or any of its component or sub-project or part thereof, and would have their:

- (i) Standard of living adversely affected;
- (ii) Right, title or interest in any house, land (including residential, commercial, agricultural and grazing land) or any other movable or fixed assets acquired or possessed, in full or in part, temporarily or permanently by public sector acquisition; or
- (iii) Business, occupation, place of work or residence or habitat adversely affected by public sector intervention.

“APs” refers to households and consists of all members residing under one roof and operating as a single economic unit, who are adversely affected by the Project. For resettlement purposes, project affected persons will be considered as members of the project affected families.

4.5 Legal Entitlement of Project Affected Persons

Involuntary resettlement is said to occur when taking of land and other assets resulting in involuntary loss of shelter, loss of productive assets or access to productive assets, or loss of income and means of livelihood. It covers both (i) the involuntary displacement (physical and non-physical) of affected people that arises from such changes, whether or not the people must move to another location; and (ii) the measures for mitigating the impacts of displacement. An important aspect in this approach is that the term ‘resettlement’ is not limited to the physical relocation of people or households, but refers also to the displacement of their economic circumstances and life survival strategies⁴.

The RP follows the 30 August 2001 Land Law and national resettlement policy in making no distinction between APs with land title and those without. Lack of title will not bar APs from entitlement to compensation for their lost assets, and rehabilitation measures in amounts and levels sufficient to ensure that the RP objectives of improving the living standards and incomes, or at least restoring to pre-project levels, are achieved.

4.6 Entitlements and Compensation

Loss of agricultural land will, at the choice of APs, be compensated by land for land of equal productive capacity or compensation in cash permitting land purchase by APs of equal quality and productivity to that lost. This entitlement will apply to all land lost in the COI of secondary canals and drains. Losses of land in tertiary canals and drains, as well as losses to quaternary systems and to ox-cart tracks, are voluntarily lost in the self-managed creation of the tertiary block irrigation system, and will be voluntarily replaced through the farmer managed process of land adjustment

⁴ As indicated above, involuntary resettlement and compensation or replacement of assets or livelihoods which have been involuntarily lost, does not include voluntary land adjustment, in which some land is lost in a process of exchange of land, not to the public sector but to the concerned community or farmer group, to permit the creation of a tertiary and quaternary irrigation system which will belong to the farmers concerned.

ADB Guidelines and the draft national policy express a preference for compensation for land losses by means of land replacement rather than in cash. In practice, land replacement has proven to be more cost-effective and socially feasible when undertaken by APs themselves, mainly because of better AP access to locally available land and the distortion which would be caused to the land market by government intervention. Land losses in both tertiary systems and in the farmer field canals, the quaternaries, will be replaced by voluntary land adjustment agreed to by farmers.

Losses in secondary canals and drains may also be subject to replacement through absorption in voluntary land adjustment accepted by all the farmers if this is an option chosen by the AP. In that case farmers in the block as a whole are providing land to replace that lost by households in the secondary system and embankment roads, on the understanding that this will be paid for through compensation. Losses to secondary canals and drains and embankment roads, which are acquired for public ownership, are in all cases subject to compensation by Government. If losses are met by land replacement contributed to by all farmers, the compensation will be paid to the FWUC for the benefit of the members of the FWUG in the tertiary block concerned who have contributed replacement land.

It is proposed (for decision making in consultation with farmers and FWUCs and WUGs) that these funds will be held in a bank account of the FWUC under the joint supervision of the FWUC and the Commune, and held in escrow for the exclusive use of the concerned FWUG. The funds will be used according to rules set out in the statute of FWUCs and FWUGs, for specific use in irrigation development, and may be used to finance a revolving credit fund, or for specific fixed assets for the improvement and operation of the irrigation system. These rules will be included in a Prakas governing the practices of FWUGs and FWUCs, derived from the existing Prakas No. 316, Directive No. 1 of MOWRAM.

The cost of the food for work programme in the Demonstration Block, \$12,528, has been met by RGC as a separate counterpart contribution to SCIRIP, and is for that reason not included in the resettlement budget.

An external agency appointed as an independent monitor prior to the start of resettlement and conducting independent monitoring and evaluation of RP implementation throughout implementation (Section 9.2 and Annex C). The EM will follow up and evaluate the effectiveness of APs achieving land replacement and restoration of livelihoods through cash compensation for land, the alternative replacement of land in the irrigation command area lost in secondary systems and in embankment roads through absorption in land adjustment and compensation to the FWUG, and the effectiveness of allowances for vulnerable households and of food for work as a compensation for disruption. All of these shall be monitored for their effectiveness at meeting the RP objective of improving or at least restoring incomes and living standards.

4.6.1 Entitlements Matrix

The Entitlements Matrix set out in Table 6 includes all entitlements, which may be applicable.⁵

⁵ Following discussion with the IRC, the Entitlements Matrix intentionally includes entitlements which may not be directly applicable in the Demonstration Block or in any other SCIRIP resettlement, since it will be a matter of policy to provide and make known all potential entitlements uniformly in RPs, and secondly to facilitate the preparation and replication of RPs without repeated research, except to amend and strengthen the Entitlements Matrix to meet specific needs and in the light of experience and monitoring.

Table 7. Entitlement Matrix of Proposed Compensation and Resettlement.

	Type of Loss	Application	Entitled Person	Compensation
1	Arable land	Loss of arable land.	Eligible landholder with formal legal title, possessory land holder eligible for formal title, and possessory landholder not eligible for formal legal title under Cambodian law and can provide evidence of occupation of such land before August 30 th , 2001 In irrigation areas this entitlement includes land lost to the construction of secondary canals and drains.	<p>Cash compensation for lost land at replacement cost; or “Land for land” will be provided in terms of a new parcel of land of equivalent productivity and with long-term security of tenure at the wish of APs for all land lost involuntarily, including land lost in main and secondary canal and drain construction and in reservoirs.</p> <p>Losses of land in tertiary canals and drains, as well as losses to quaternary systems and to ox-cart tracks, are voluntarily lost in the self-managed creation of the tertiary block irrigation system, and will be compensated by voluntary replacement of land through the process of farmer managed land adjustment</p> <p>Losses in secondary canals and drains, with the exception of affected land such as gardens not in the command area, may also be subject to replacement through absorption in voluntary land adjustment accepted by all the farmers if this is an option chosen by the AP. All APs losing land in the COI of secondary canals and drains are entitled either to be compensated in cash for this land loss or to have their land replaced. For those APs receiving cash compensation this land loss will not be included in voluntary land adjustment. However, those opting to do so will have their affected land, other than land outside the command area, replaced by inclusion in land adjustment in the tertiary block, together with their unaffected land. The APs will then obtain a piece of land with irrigation and drainage replacing their existing land and so far as possible in the same location. Land adjustment will itself involve the voluntary loss of that fraction of the affected land which all farmers accept in return for the benefits of the creation of the irrigation system.</p> <p>Nevertheless losses to secondary canals and drains are subject to compensation by Government, and if losses are met by land replacement contributed to by all farmers, the compensation will be paid to the FWUC for the benefit of the members of the FWUC in the tertiary block concerned. These funds will be held in a bank account of the FWUC under the joint supervision of the FWUC and the Commune, and held in escrow for the exclusive use of the concerned FWUG. The funds will be used according to rules set out in the statute of FWUCs and FWUGs, for specific use in irrigation development and may be used to finance a revolving inputs fund, or for specific fixed assets for the improvement and operation of the irrigation system. APs and all farmers in the tertiary block are entitled to participated in and benefit from a food for work programme in the construction of tertiary and quaternary systems and ox-cart tracks.</p> <p>No distinction between titled and not-titled landholders. Replacement land to be free from taxes, registration and transfer costs. Severely affected farmers eligible for economic rehabilitation assistance and other allowances (disruption allowance; assistance to obtain training and employment.)</p>
			Agricultural laborer	Cash compensation equivalent to three months salary and assistance in obtaining alternative employment.
			Lease holder or tenant, including non-paying tenants with permissory rights of land use	Cash compensation equivalent to replacement cost of gross harvest for one year. Food for work and other allowances as applicable.
		Temporary acquisition or easement	Eligible landholder	Cash compensation based on opportunity lost during the period. Land returned to the landholder after use, fully restored or improved.
2	Residential land	Loss of residential land	Eligible landholder with formal legal title, possessory land holder eligible for formal title, and possessory landholder not eligible for formal legal title under Cambodian law and can provide evidence of occupation of such land before August 30 th , 2001	<p>Compensation in cash at replacement cost or, at AP's choice, replacement land of minimum plot of acceptable size or a plot of equivalent size, whichever is larger, either on fully serviced resettlement sites if provided or on other sites acceptable to APs.</p> <p>Replacement land to be free from taxes, registration and transfer costs. Eligible for relocation assistance and other allowances as applicable. Assistance to APs to permit on their own remaining land adjoining channel or reservoir embankment house/shop sites, or if no remaining land, for provision of a house/shop site along the embankment or in another suitable location.</p>

		Temporary acquisition	Lessee, tenants or non-paying tenants with permissory land use rights. Landholder with formal legal title, possessory land holder eligible for formal title and possessory landholder not eligible for formal legal title under Cambodian law and can provide evidence of occupation of such land before August 30 th , 2001	Eligible for relocation assistance and other allowances, as applicable. Cash compensation for the net loss of income and damaged assets. Land returned to original owner after temporary use, restored to previous condition or improved.
			Lessee, tenant or non-paying tenant with permissory land use rights	Cash compensation and other allowances, as applicable.
3	Commercial land	Plots used for business affected	Landholder with formal legal title, possessory land holder eligible for formal title and possessory landholder not eligible for formal legal title under Cambodian law and can provide evidence of occupation of such land before August 30 th , 2001	At AP's option, provision of alternative business site of equal size and accessibility to customers, satisfactory to the AP OR compensation in cash at replacement cost for the affected land. When the affected premises are larger than the relocation plot, cash compensation at replacement cost to cover the difference in area. No distinction between titled and non-titled landholders. Replacement land to be free from taxes, registration and transfer costs. Cash compensation for lost income during the transition period. Eligible for relocation assistance and other allowances and rehabilitation assistance, as applicable.
			Lessee, tenant or non-paying tenant with permissory land use rights	Assistance for finding new commercial site. Eligible for relocation assistance and other allowances and relocation assistance, as applicable.
	Type of Loss	Application	Entitled Person	Compensation
4	Loss of structure	Loss of house, well, pond, fence, latrine, kiosk or shop, etc.	APs who are the recognised owner	Compensation in cash or materials at full replacement cost at current market value, with no deduction in compensation for depreciation or salvageable materials. Compensation will be based on a competent technical survey
			Tenants renting structures	Three months' rent and other assistance with relocation (transport allowance, disturbance allowance)
5	Loss of business / incomes or employment	Loss of business / incomes / employment	Affected APs	Cash compensation for the loss of business, incomes and wages. Assistance during the transition period. Eligible for rehabilitation assistance and other allowances, as applicable.
6	Standing crops, trees	Crops or trees affected by land acquisition or temporary acquisition/easement	Owner of crops or trees	Compensation in cash calculated on the basis of type, age and productive value of affected crops or trees or replacement by tree planting at cost. Other allowances as applicable.
7	Common resources or infrastructure	Loss of access to community water supply, sanitation and drainage or other utility, market facilities, community grazing land or forest	Affected communities	Replacement or compensation at the full cost of replacement at current market value with no deduction for age or depreciation or salvaged materials, or improved resource to increase benefits from the project.
8	Public Utilities	Loss of, or damage to, affected assets, partially or entirely (not applicable in this project).	AP Communities and public agencies.	Replacement or improvement to the facilities.
9	Public facilities	Loss of, or damage to, public infrastructure	Concerned agencies	Replacement or improvement to increase the benefits from the project, and compensation in cash at replacement cost to respective agencies.
10	Special assistance / allowance for vulnerable groups	Special assistance to vulnerable groups	APs belonging to vulnerable groups including households who are very poor (earning less than \$10 per month), headed by the aged, women, disabled, or otherwise vulnerable such as ethnic minorities	A \$20 allowance plus additional cash and other assistance based on identified needs and priorities, households with more than one factor of vulnerability being entitled to a \$20 allowance for each factor. For example, households that are very poor and headed by a woman would be entitled to \$40.

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	Disruption allowance	All APs	All households suffering relocation of houses or of most of their productive landholding .	Either a disruption allowance of \$40 or of the price of 6 months rice consumption for all members of the household, whichever is the greater, payable to all severely affected APs (i.e. who lose more than 10% of their total landholding)
	Employment	All households in the community, including APs	All households whether or not losing productive landholding and disrupted by project works	Employment on the construction of tertiary canals and drains under food for work Advice and support of the Provincial and local authorities in obtaining training and employment for the household head and members of the household
	Transport allowance	All relocating households and businesses who must move their personal possessions and old and new building materials	Relocating households and businesses	Either provision of transportation by local authorities or cash sufficient to be able to transport possessions.

4.6.2 Land Prices

Prices have been determined on the basis of consultation with village and commune leaders, Provincial DLMUPC, and a record of recent land transactions in each of the main areas of the Project and potential relocation sites. A provisional price has been established for three categories of land: \$1,200 per ha. for irrigable land on or adjacent to the Main Canal, secondary and tertiary canals, or close to the National Highway; \$1,000 per ha. for other rice and vegetable producing land, including that at Snao, Taphok and Palaing; and \$400 per ha. chamcar plantation plots in upland.

These prices have also taken into consideration the need (a) to restore long-term livelihoods of the family; and (b) to permit self-managed land replacement by farmer purchase..

The IRC considers that land prices must be reviewed at implementation to take account of any price inflation resulting from continuous increases in pressure on land availability and use and changing land use in the project area, including upland in the reservoir. The IRC will make a further survey of land prices during the process of consultation prior to compensation and will if necessary draw on the contingency budget to increase the fund available for this purpose. The contingency is for this and other purposes of physical contingency set at 20% of the costs of RP implementation.

Table 8: Land Categories and Estimated Compensation Prices, January 2003.

Land Characteristics	Price \$ per ha.
Irrigable land on or adjacent to the Main Canal, secondary and tertiary canals, or close to the National Highway	1,500
Other rice and vegetable producing land, including recession and locally irrigated land, at Snao, Taphok and Palaing	1,000
Upland rice, tree crop and vegetable production areas	500

4.6.3 AP Structures

Table 9 : Compensation Rates for Structures

Housing Type	Description	Compensation Rate (US\$/m ²)
1	Thatch or wooden walls with bamboo or earth floor and thatch or metal roof on wooden stilts or on the ground	4.50
2	Wooden walls and wood or cement floor with metal, tile or plastic sheet roof on wooden stilts or on the ground	12.00
3	Brick or mortar walls with concrete or wooden floor and metal or tiled roof on concrete stilts or on the ground –single storey.	85.00
4	Brick or mortar walls with concrete or wooden floor and metal or tiles roof on concrete silts or on the ground-multiple storey.	140.00

The compensation rates for houses have been discussed with APs and reviewed in relation to actual structures, with a view to assessing the possibility of their failing adequately to reflect differences of design, construction and materials of housing which might lead to inaccurate or unfair compensation. In

practice they are judged to apply accurately to house types in the Project impact area, which fall predominantly into three categories: Type 1 as described in Table 8 adequately describes most houses along the main canal, with the exception of the one modern, Type 4, house near Taphok. Most of the houses impacted on the Stung Chinit river are Type 2 houses, and the compensation expected to be paid for these has been discussed in detail with APs and exceeds their estimated costs of local rebuild in new.

The terms of reference of the EM require him to have expertise in land and property valuation and to assist APs having any grievance in respect of the survey or valuation of their property.

4.6.4 Agricultural Assets

Annual Crops

APs will be given two month's notice that the land on which their crops are planted will be used by the project and that they must harvest their crops in time. If standing crops cannot be harvested eligible APs can be compensated for the loss of the unharvested crops at the value as indicated in the table below:

Table 10: Value of Annual Crops

Crop Type	Average Value (Riels)
Rice	250 per m ²
Market Gardens	500 per m ²

Perennial Crops

APs will be compensated for the loss of fruit trees, palm and timber trees located within the COI and reservoir. The value set out in Table 10 below has been calculated as the annual produce value multiplied by a five year factor plus the cost of planting of seedlings.

APs will be awarded the full value of any lost crops where the plants are near or ready to harvest.

4.6.5 Trees

Table 11: Value of Trees

Type of Tree	Total Value per Tree (US\$)
Mango	30.00

Cashew nut	12..50
Palm	8.00
Coconut	15.00
Citrus	15.00
Other	5.00

4.7 Fences

Fences, either made from timber or other materials, or “live fences” will be compensated for at a rate of US\$ 0.75 per square metre. Concrete or masonry walls will be compensated at \$4.50 per square metre.

4.8 Graves

A sum ranging from US\$ 50 to US\$ 120 will be paid for each grave depending on the type of grave to be moved. Stupa or tombs will be compensated at the cost of rebuilding. Compensation for the displacement of graves and stupa may also include the costs of any ceremony which accompanies relocation.

5. Participation, Information and Consultation and Grievance Redress

5.1 AP Participation

An important aspect of the participation of APs will be that of their membership of Commune or Village Resettlement Committees consulting with the Provincial Resettlement Sub-Committee and Working Group on the implementation of the RP, and especially on replacement and compensation for losses of land, houses or other property and livelihoods. They will also be directly involved in the irrigation development, in decisions on means of avoiding unnecessary adverse impact and on land adjustment, and in achieving direct and related benefits from the development, especially through membership of Farmer Water User Committees (FWUCs) and WUGs.

Both men and women will have the opportunity of employment in project construction works. Village and Commune Resettlement Sub-Committees and FWUCs will also be responsible for providing assistance to vulnerable households with land purchase and land and irrigation system development.

The Provincial and District governments will be fully and continuously involved in these consultations through the Provincial Resettlement Sub-Committee, Provincial and District staff. Village, commune and block leaders and Tertiary Block Units will be involved in training programmes to ensure their full understanding and management of the land adjustment and resettlement programme.

An external monitoring agency (EM) headed by a local NGO contracted for that purpose by the IRC will provide an effective mechanism for participation of affected community members in external monitoring of resettlement, and will for that purpose establish focus groups in each Commune which will have representation of male and female household heads and vulnerable households.

5.2 Informing APs

Those potentially affected by irrigation works have been informed of the situation in a series of community meetings prior to the marking out of the alignment and the conduct of the Identification Survey, the DMS and registration of APs. They will be further informed of, and consulted as to developments as the layout of the irrigation system is established.

While the majority of farmers along the canal and drain alignments are aware of the imminent commencement of the project and know that some of them may be required to give up land, there remains a major need both to inform APs accurately of the physical aspects of the project, to advise them of the RP and of their rights and entitlements, and to provide training and support both to APs and to the community as a whole in managing land adjustment and farmer land exchanges in the creation of the irrigation system. This is a specific responsibility of Tertiary Block Units working with GRET.

Provincial Department of Water Resources and Meteorology provided information during 2000 on the Project to the commune authorities and village heads, who in turn informed the beneficiary population in their areas. Most of the people surveyed were aware of the project. The 2000 TA team informed the communities about the project objectives, its likely impacts and benefits to the APs and beneficiary population, prior to the census, focus group discussions and beneficiary consultation held at that time.

The GRET team during 2001/2002 set up a network of local staff working in all the northern sector of the irrigation area to consult with and inform the population. The MOWRAM RU and Provincial Resettlement Working Group who carried out the DMS in November 2002 have additionally informed communities in the impact area of the Main Canal, the reservoir and reservoir drainage canals, and enlisted the help of the two District Chairman, Commune Chairmen and Village Headmen to provide liaison with the concerned communities during the DMS.

An Information Booklet has been disseminated during January 2004 to May 2004 concerning the RP and rights of APs for compensation, based on the English draft set out in Annex 2. The Provincial Resettlement Sub-Committee and Working Group, assisted by PDWRAM, will carry out an information campaign before conducting the registration of APs, and will for this purpose publish a booklet in Khmer. The information booklet contained information on the Project compensation policy, compensation payment procedures, and construction schedule aimed at social preparation for relocation and resettlement of the affected persons. PDWRAM and GRET will be responsible for distribution of the booklets as well as monthly newsletters to affected communities for the duration of the Project through the provincial, district and village government offices and Tertiary Block Unit. During the DMS, each household will be personally informed about the project, entitlements and procedures.

The disclosure and consultation process is designed to achieve the following:

- Explain the relevant details of the Project scope and schedule,
- Explain the RP and the various degrees of project impact,
- Provide details of the entitlements under the RP and what is required of APs in order to claim their entitlement,
- Explain the relocation and resettlement operations and options and enlist the agreement and support of affected people in participating in these operations,
- Explain the Implementation Schedule with a timetable for the delivery of entitlements,
- Explain the compensation process and set out compensation rates,

- Provide a detailed explanation of the grievance process,
- Enlist the help of village leaders and other influential community officials in encouraging the participation of the APs in RP implementation, and
- Attempt to ensure that all vulnerable groups understand the process and that their needs are specifically taken into consideration and are met by assistance by the Project and by commune and village resettlement sub-committees.

5.3 Consultation

(a) Phase 1: During the census and the beneficiary consultations for preparation of the 2000 draft RP and again in 2002, local commune and village heads provided useful suggestions on major issues relating to the Project design and proposed improvements. These were duly taken into consideration for planning of fieldwork, and particularly in 2002 in liaison with Project engineers in the design of the reservoir dikes and drainage to minimise impact on villages and lands.

Project authorities, through the Provincial Resettlement Sub-Committee, will ensure that local authorities as well as representatives of APs will be included in the implementation and decision making process. The project authorities will continue the dialogue with local officials and representatives of the APs during the Project design and implementation process.

APs will be consulted and asked to participate in any assistance needed to restore farming viability and restoration of livelihoods on the part of vulnerable households and in any restoration of community facilities.

(b) Phase 2: Information Campaign and Consultation during Project Design, Planning and Resettlement Implementation.

During Phase 2, project planning and design, and resettlement implementation, the following activities are being carried out sequentially:

Activity 1: Consultation with MOWRAM and IRC: The RP has been discussed with MOWRAM, the IRC and local authorities;

Activity 2: Inventory Follow-up Visit to APs: As a first step for implementation of the RP following activities have been carried out:

- (i) Updating of compensation rates for different types of affected assets;
- (ii) IRC Provincial Resettlement Working Group team have visited each AP in the widened area of impact to update and confirm the inventory of affected assets (cultivation area affected, area of affected structure etc) and to finalize compensation assessment;
- (iii) Based on the final inventory and compensation assessment the RP implementation teams have completed an Assets Compensation Form and taken photographs of affected structures for each affected household;

- (iv) In case there is any disagreement on any aspect of the form, the initial grievances will be recorded and addressed in accordance with the grievance procedures;
- (v) During the revised DMS, APs have been consulted about their preferred options for cash or land-for-land, and for rehabilitation assistance measures. These preferences have been documented for planning and design of resettlement and appropriate rehabilitation assistance measures.

Activity 3: Public Meeting with APs/Information Dissemination: After the restructured DMS and visits to each affected household and the updating of inventory and entitlements, arrangements have been made for a series of public meetings at strategic locations in the project areas beginning in January 2003. APs are informed of a suitable time and place for public meetings. These meetings are intended to clarify information that has been given about the project and the RP, and to provide APs with an opportunity to discuss issues of concern and to obtain clarification. Adequate time will be given to local authorities (primarily village headmen) to contact and inform APs about the purpose, time and place of the meetings. Detailed information about the project will be presented to the APs at public information/consultation meetings at the local community level (or at the tertiary block or FWUG or FWUC level). The arrangements and content for these meetings will be decided on in close discussion with the GRET advisers and farmer organization and extension teams.

Activity 4: Other Information Dissemination: Following the survey, information and consultation program being conducted by Provincial Resettlement Sub-Committee, APs will be notified about the time, location and procedures for compensation payment. The APs will also be informed in advance on the documents (letter of authority, identification card, land title etc) that they are required to bring with them for compensation payment purposes. For APs receiving income restoration measures, the SCRS will confirm their preferences for the type of rehabilitation assistance and preferred schedule for delivery of such assistance. Before any sites are cleared as part of the civil works, APs will be given adequate notice to collect their belongings, harvest crops etc. Providing assistance in transportation and settling in assistance will assist APs in relocation to their new sites. This will be carried out with the assistance of NGOs, where possible, and through local officials and project staff.

5.4 It is proposed to establish an external monitoring agency (EM) headed by a local NGO contracted for that purpose by the IRC. The EM will be responsible for monitoring all aspects of RP implementation in cooperation with the MOWRAM RU, and for providing feedback to the PIU and IRC. Grievances by APs will also be channeled through the grievance procedure assisted by the EM. The EM will provide an effective mechanism for participation of APs in external monitoring of resettlement, and will for that purpose establish focus groups in each secondary system which will have representation of male and female household heads and vulnerable households.

The EM will undertake a 20% KARE baseline socioeconomic survey of all AP households, and will make follow up evaluations based on the survey at month 8 and in year 3 after implementation of the RP.

Participation of APs in monitoring will provide project management with a more accurate reflection of APs reactions and perceptions. Any ex-post evaluation is likely to require some measure of consultation with APs. It is proposed that the EM be involved in the planning and implementation of ex-post evaluation, especially with regard to fundamental resettlement objectives such as restoration of incomes and livelihoods. Detailed terms of reference of the EM are set out in Annex 6.

5.5 The Grievance Process

i. Grievance Rights

All APs have the right of appeal against any aspect of decisions made not in accordance with the RP or with commitments given to them, or on which they disagree with the level or manner of compensation, including that for land losses.

The main objectives of the grievance procedure are to provide a mechanism to ensure that the compensation and resettlement programme have been implemented accurately and fairly, alleviating any adverse effects on APs, to mediate conflict and to avoid lengthy litigation that is unfair to APs and can delay the project. It also provides people who have objections or concerns about their compensation or other assistance with an accessible and known procedure through which to raise their objections and have them resolved.

ii. Function

The functions of the grievance process will be:

- To make all APs aware of the process of the RP and entitlement policy and of the timetable for implementation;
- To provide support for the APs being relocated on problems arising out of their adjustment to their new environments;
- To record grievances of the APs and categorise and prioritise those grievances that need to be resolved by the Grievance Committee;
- To record grievances of the APs and categorise and prioritise those grievances that need to be resolved by the Grievance Committee;
- To assist the APs in dealing with the decisions of the Grievance Committee (the Grievance Committee should be given the power to resolve all but the most serious of grievances);
- To report new developments to the aggrieved parties regarding the hearing of their grievances. The decisions of the Grievance Committee will not be contested in any other forum, except in the courts of law.

iii. Steps Involved

The grievance process must be explained to every AP at the time of compensation. The process should be as follows:

- (i) As a first stage, APs will present their complaints and grievances to the Village or Commune Resettlement Sub-Committee and, if he or she wishes, to the NGO External Monitor and/or to any NGO working in the Community⁶. The NGO will record the complaint in writing and accompany the AP to the Village or Commune Resettlement Sub-Committee. The Sub-Committee will be obliged to provide immediate written confirmation of receiving the complaint. At the same time, the complaint will be forwarded to the Provincial Resettlement Sub-Committee and the Provincial Grievance Committee.
- If the Village or Commune Resettlement Sub-Committee is unable to resolve the grievance, it will refer the grievance with any relevant information or documents to the Provincial Resettlement Sub-Committee through the PIU at PDWRAM, which will advise the Provincial Grievance Committee.
 - At this or any subsequent stage the External Monitor (EM) may be asked by the AP or the PIU to carry out a survey and valuation of structures or land which is the subject of dispute and to provide this or otherwise assist in further review or arbitration.
 - The Provincial Grievance Committee meets with the aggrieved party and tries to resolve the situation. The Committee may ask for a review of the DMS by the external monitor. Within 21 days of the submission of the grievance the Committee must make a written decision and submit copies to Provincial MOWRAM, the monitoring agency, and the AP
 - A judgment on the complaint will be made by the Provincial Grievance Committee with the participation of the village head, Commune Chairman and the NGO within 21 days of the written acknowledgement being issued. The Provincial Grievance Committee will provide the AP with its decision within 21 days of the the complaint being lodged.
 - If the AP is not satisfied with the solution of the Provincial Grievance Committee, the case may be submitted for consideration by the legal system, however, every effort shall be made to avoid this by resolving grievances within the framework of the Provincial administration and the Project, and with the assistance of the EM.
 - If the decision is in favour of the aggrieved party, corrective actions must be prescribed in the letter and implemented within 14 days of the decision with interest added for any back payment of compensation.
 - If no decision can be agreed to and the settlement of the grievance is essential to the successful implementation of the Project, MOWRAM may ask for arbitration to be undertaken by an independent agency, assisted by any survey or valuation by the EM and with the presence of the EM.
 - In the event that this procedure does not achieve an agreed resolution of the grievance, MOWRAM may take the matter to court, with the plea that an order for eviction be granted, but must advise the ADB of its intention to take this step one month in advance, and must in any case make payment of the full compensation costs and allowances to which the AP is entitled.
 - The grievance procedures do not take away the constitutional rights of any AP him or herself to lodge a complaint with the court at the municipal level. This may be followed by subsequent appeals to the court at the provincial level and national level, but the purpose of the grievance procedure is that citizens, particularly people in the municipal and Commune/village level, will

⁶ This provision does not apply to GRET, which is working under a specific contract to assist in the organizational and agricultural development aspects of the project.

not need to take their complaints to the formal legal institutions and that most complaints will be settled at the lowest level.

- APs will be exempted from all administrative, transfer and legal fees.
- It is recognized that, in many cases, APs do not have writing skills and the possibility of being able to express grievances verbally has been considered, however, APs are encouraged to seek assistance from the EM, other local NGOs or other family members, village heads or community chiefs to have their grievances recorded in writing and to have access to the DMS or other documentation, and to any survey or valuation by the EM, to ensure that where disputes do occur all the details have been recorded accurately enabling all parties to be treated fairly.

iv. Make up of the Grievance Committee

Kampong Thom Province will have a Grievance Committee under the Provincial Resettlement Sub-Committee comprising four permanent members and two local members. The Committee will be chaired by the Provincial Governor or his representative and have as members the Provincial Head of the Department of Water Resources, the Provincial Head of the Department of Finance, Justice Department, a member from the external monitoring agency and one or more local leaders (such as the Village Head, tertiary block chief or Commune Chairman) familiar with the area and the circumstances of the complaint, one of whom at least should have been nominated by the AP and briefed to represent him or her. Coopted members may include any local NGO nominated by the AP and the External Monitor contracted by the IRC. The External Monitor and any local NGO representing the AP may offer advocacy, advice or expert support, but may not vote. (see below section 9.2)

(ii)

6. ORGANIZATIONAL SET-UP

A PMO at MOWRAM headed by the Project Coordinator is responsible for all aspects of the irrigation development and engineering operations and MOWRAM is the Executive Agency assigned by RGC. MOWRAM has appointed a PIU at provincial level, headed by the Provincial Director of Water Resources and Meteorology (PDWRAM) to be in charge of supervision and coordination of Project implementation.

For purposes of resettlement planning and implementation, including the conduct of surveys, consultation with and information to APs, the Interministerial Resettlement Committee (IRC) chaired by MEF has convened a Stung Chinit Resettlement Subcommittee (SCRS). MOWRAM RU is responsible for support to a Provincial Resettlement Working Group to work with the PIU and provincial authorities, and will be responsible for detailed implementation of the RP.

The provisions and policies of this RP will form the legal basis for implementation in the Project. The following specific organizational and management arrangements will, however, be applicable to the resettlement activities in the project.

6.1 Institutions for Resettlement

a. Steering Committee

The Steering Committee comprising representatives of MEF, MOWRAM, MRD, MAFF, MLMUPC and IRC will oversee all aspects of the Project.

b. MOWRAM

MOWRAM is responsible for implementing the irrigation and agriculture components of the Project on behalf of the Government of Cambodia. Apart from a small national Project Management Office (PMO), MOWRAM will establish a PIU, based in Kompong Thom and headed by the Provincial Director of Water Resources and Meteorology (PDWRAM) as Project Director, to implement the irrigation components.

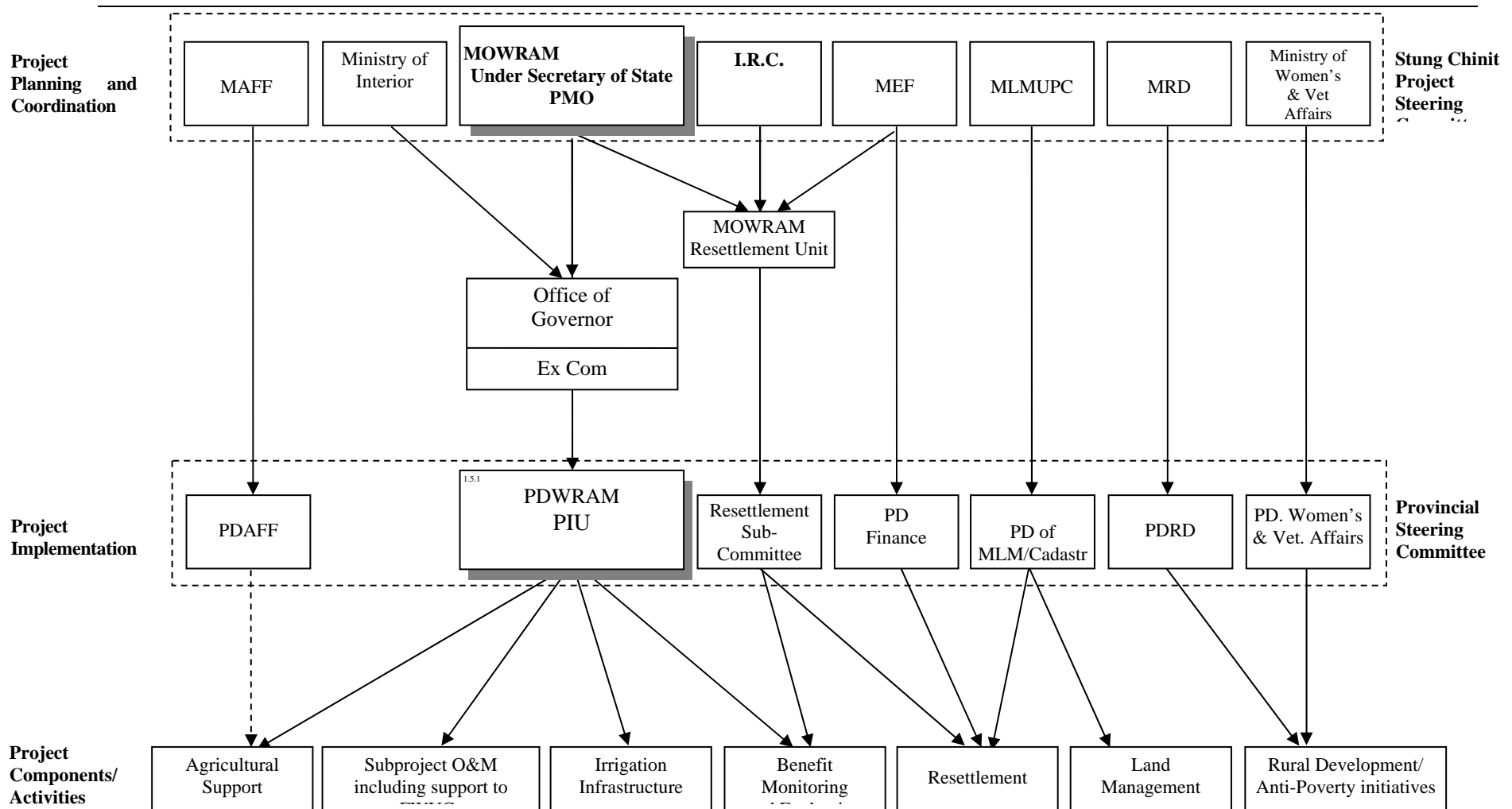
A Resettlement Unit (RU) appointed by MOWRAM will work with the IRC, SCRS and provincial authorities on implementation of the Resettlement Plan, and specifically to coordinate civil works with resettlement activities.

c. Stung Chinit Resettlement Subcommittee

Convened by the IRC, the SCRS, will be responsible for the following resettlement activities:

- (i) Liaising with the RU to carry out the overall implementation of resettlement activities in accordance with the resettlement policies specified in the RP;

- (ii) Amending or complementing the RP in coordination with concerning government agencies in case of any problems identified by internal and/or external monitoring of RP implementation to ensure that the objectives of the RP are met;
- (iii) Overall planning of the resettlement programs;
- (iv) Guiding and supervising the field staff to carry out the verification of inventory, finalization of entitlements, and assessment of final compensation;



Project Organization and Co-ordination **Figure 2**

- (v) Submitting compensation / assistance costs for approval by the IRC, and allocation of needed resources;
- (vi) Informing APs of the resettlement programme and of their entitlements;
- (vii) supervising the compensation payment process and the implementation of the RP in all the communes;
- (viii) Providing support to the Provincial Grievance Committee to redress grievances concerning resettlement;
- (ix) Providing training to the commune staff on planning and implementation of resettlement activities and on the principles of resettlement in accordance with the RP;
- (x) Preparing periodic supervision and monitoring reports on RP implementation for submission to the IRC and ADB.

d. Provincial Agencies

The office of the provincial and district Governors, provincial agencies of MRD, MAFF and MLM and Department of Finance will assist the SCRS in (i) land ownership and land holding surveys; (ii) establishing compensation prices for land, structures, crops and other fixed assets; (iii) validating tenure status of land and structure; and (iv) land recovery and allocation. Local authorities may be called on to assist the SCRS in:

- (i) Public information campaign, public participation and consultation;
- (ii) Finalizing compensation and entitlement forms for each PAP;
- (iii) Payment of compensation and allowances;
- (iv) Planning and implementing all resettlement and rehabilitation activities in the district and commune level;
- (v) Addressing all grievances in the commune in accordance with the established procedures; and
- (vi) Maintain record of all public meetings, grievances, and actions taken to address complaints and grievances.

6.2 External Monitoring

An independent agency or NGO specialized in social sciences will be identified and contracted to serve as the External Monitoring Agency (EM), described in greater detail below in Section 9.2. A TOR for external monitoring and evaluation is provided in Annex C

A specific requirement of the TOR of the EM is that, as described above in section 5.3, the organization involves APs, through their local leadership and as focus groups, in the monitoring and evaluation of the RP implementation.

6.3 Resettlement and Rehabilitation Capacity in MOWRAM and the Provincial Resettlement Sub-Committee

MOWRAM or its provincial offices have been trained in DMS and socio-economic survey, and have carried these surveys for the RP, but as yet do not have capacity in RP preparation and implementation. Staff within the PIU assigned to work with the IRC and SCRS will need

sustained training in resettlement planning and implementation, as will the external monitoring NGO.

Project Resettlement Consultancy will include training on the following topics during implementation of the RP, based primarily on training for the MOWRAM Resettlement Unit and for a Social and Environmental Unit in MOWRAM PMO. This should be aimed at equipping them themselves to undertake a training programme in the SCRS and in Provincial Resettlement Sub-Committees engaged in preparing and implementing future projects:

- (i) Resettlement principles and policy;
- (ii) Resettlement implementation procedures and sequence of activities;
- (iii) Relocation planning and implementation;
- (iv) Methodology for compensation assessment;
- (v) Data management system;
- (vi) Public participation and consultation procedures;
- (vii) Grievance procedures and resolution; and
- (viii) Supervision and monitoring of resettlement.

7. RESETTLEMENT COSTS AND BUDGET

Funds for RP implementation are included in the Project budget. Estimated resettlement costs are based on the prevailing rates as of January 2003.

7.1. Procedures for Flow of Funds

MEF will be responsible for providing necessary funds for all aspects of resettlement implementation. Necessary funds will be disbursed according to established Government procedures. In the case of over-runs, MEF will ensure that adequate funds are made available as and when necessary for efficient and timely implementation of resettlement activities.

7.2 Implementation, Administration and Contingency Costs

Resettlement implementation costs include costs of general administration, payment of per diem and allowances to the staff of the SCRS, commune and district staff participating in resettlement implementation and the costs of Provincial PIU and Working Group in inventory of losses and compensation in Stage 2 tertiary block development over the life of the project.

Table 12. Incremental Cost Estimate of Resettlement Action Plan Implementation

RP Implementation	Mth	4	15,000	60,000
Detailed Measurement Survey	Mth	2	15,000	30,000
Community Consultation	Mth	2	3,000	6,000
Stage 2 Inventory of losses and compensation	Mth	6	2,000	12,000
Monitoring – IRC/MOWRAM	Mth	24	1,000	24,000
Evaluation – IRC/MOWRAM	Mth	6	1,000	6,000
Reporting	Mth	6	600	3,600

Administration	Mth	24	500	12,000
Grievance Committee	L/S			4,000
External NGO Monitoring	L/S			30,000
Total				187,600

Table 12: Summary Estimated Costs for Implementation Resettlement Action Plan

5.5.1

Description	Unit	Compensation Rate USD / Unit	Quantity	Amount In USD
<u>Compensation for Land</u>				
Agricultural (Type 1)	M ²	0.15	995,106.88	149,266.03
Agricultural (Type 2)	M ²	0.10	728,622.90	72,862.29
Agricultural (Type 3)	M ²	0.05	9,510,058.27	475,502.91
Residential	M ²	2.00	68,900.69	137,801.38
Sub-Total			11,302,688.74	835,432.61
<u>Compensation for Houses</u>				
House (Type 1)	M ²	4.50	1,594.46	7,175.07
House (Type 2)	M ²	12.00	824.42	9,893.04
House (Type 3)	M ²	85.00	132.69	11,278.65
House (Type 4)	M ²	140.00	900.00	126,000.00
Sub-Total			3,451.57	154,346.76
<u>Other Structures</u>				
Wooden Fence	M	0.75	160.00	120.00
Concrete Fence	M	4.50	36.70	165.15
Pump Well	Unit	75.00	1	75.00
Cheidei (Concrete)	Unit	2,000.00	2	4,000.00
Sub-Total				4,360.15
<u>Economic Trees</u>				
Mango	Tree	30.00	98	2,940.00
Cashew		12.50	2,096	26,200.00
Palm		8.00	384	3,072.00
Coconut		15.00	23	345.00
Citrus		15.00	38	570.00
Others		5.00	3,240	16,200.00
Sub-Total			5,879.00	49,327.00
<u>Disruption Allowance</u>	H.H	40.00	1,778	71,120.00
<u>Allowance for Vulnerable Groups</u>				
Female (Widow) Headed Household	H.H	20.00	246	4,920.00
Aged Headed Household		20.00	94	1,880.00
Disabled Headed Household		20.00	361	7,220.00
Sub-Total			701	14,020.00
<u>Transport Allowance to Relocating PAPs</u>		40.00	67	2,680.00
Public Facilities (Access Road and Bridges)	800 meters road and 2 Bailey Bridges to be included in the supporting infrastructure component			
<u>Incremental Administration Costs, including External Monitor</u>				187,600.00
Total				1,318,886.52
Contingencies (20% of Total)				263,777.30
Grand Total				1,582,663.82

8. IMPLEMENTATION SCHEDULE

RP preparation began with a DMS of secondary canal systems late January 2003 and continued until mid-March 2003.

The RP was submitted for approval by IRC and ADB mid-January 2004. It has been further reviewed by MOWRAM and the IRC for implementation mid February 2003.

A priority study was conducted by IRC, MOWRAM RU and Provincial RSC in the Pilot Tertiary Block. Works involving APs based on a Short Resettlement Plan began in the Pilot Block and have been the subject of information and consultation programmes which will lead to compensation and land adjustment in mid-May 2004.

A further information campaign using the Information Booklet will be conducted from April 2004.

Tertiary Block teams established by GRET in cooperation have assisted Commune and Village RSC and were in place for this purpose in the first 6 Blocks by end-January 2003.

Information, Consultation and compensation/relocation programmes will be completed in accordance with the implementation schedule, Annex E. The schedule also provides the target dates for contracting and start of civil works.

The Revised Draft RP will be approved by the IRC and presented to IRC and ADB by 21 May 2004.

9. MONITORING AND EVALUATION

Implementation of the RP will be regularly supervised and monitored by SCRS and the PIU and its resettlement unit, and by the ADB. External monitoring will be conducted by an independent non-governmental organization or research agency as EM to terms of referenced described above and in Annex C.

9.1 Internal Monitoring

The objective of the internal monitoring and supervision is to (i) verify that the valuation of assets lost or damaged, and the provision of compensation, resettlement and other rehabilitation entitlements has been carried out in accordance with the provisions of the Resettlement Policy of the ADB and the RP; (ii) oversee that the RP is implemented as designed and approved; and (iii) verify that funds for implementation of the RP are provided by the project authorities in a timely manner and in amounts sufficient for their purposes, and that such funds are used in accordance with the provisions of the RP.

The main indicators that will be monitored regularly are:

- (i) The entitlements of APs are in accordance with the approved policy and that the assessment of compensation is carried out in accordance with agreed procedures;
- (ii) Payment of compensation to the affected people in the various categories according to the level of compensation described in the RP;
- (iii) Public information and public consultation and Grievance procedures are followed as described in the RP;
- (iv) Consultation with, and participation of APs in identifying appropriate rehabilitation assistance measures;
- (v) Compensation to permit relocation and payment of subsistence and shifting allowances are made in timely manner;
- (vi) Restoration of the public facilities and infrastructure affected by the project;
- (vii) Liaison with NGOs and other donor projects permits the provision of training and credit availability; and
- (viii) Resettlement and compensation are timed to permit adequate measures for any restoration of assets and livelihoods prior to commencement of civil works;
- (ix) Reporting to the IRC and ADB permits effective supervision and management of RP implementation.

9.2 External Monitoring

An agency or NGO specialized in social sciences will be responsible as External Monitor (EM) for conducting independent external monitoring and evaluation of RP implementation and the resettlement program.

Additionally, the monitoring agency will also be contracted to carry out post-implementation evaluation studies in month 9 and in Year 2 of the resettlement programme to assess whether or not the resettlement objectives are achieved and APs are able to improve their living standards. Terms of Reference for external monitoring of RP implementation and evaluation study is included in Annex C.

PDWRAM, through PIU will request the EM to prepare cost estimates and a working plan based on the Terms of Reference to serve as basis for the contract to be signed between the IRC and the EMA. The contract should be signed within one month from the start of the RP implementation.

For external monitoring, the EM will follow the indicators specified in the TOR. In general, the indicators would include the following:

- (i) Assessment and Payment of Compensation
- (ii) Linkage of resettlement and construction
- (iii) Restoration of civic infrastructure
- (iv) Provision of training, jobs, and availability of credit assistance
- (v) Public consultation and participation
- (vi) Awareness of resettlement policy and entitlements

The monitoring methodology will consist of the following:

- (i) A socio-economic KARE baseline survey, including random review of acquisition and compensation documents to ensure full compliance with the RP requirements. The survey will cover a sample size of about 20% of all Aps, and will include (i) inventory of affected assets; (ii) assessment of compensation for all types of affected assets based on replacement cost; and (iii) compensation is paid prior to initiation of works.
- (ii) Special market studies aimed to ascertain adequacy of compensation paid for affected assets, against current market prices;
- (iii) Focus Group meetings and consultation, involving periodic field visits and surveys, at least every three months, to ascertain that affected people are adequately informed of project objectives, impacts, compensation policy and entitlements through an effective public information campaign, and whether the grievance procedures are adequately explained to the affected people and implemented;
- (iv) Follow-up KARE surveys in month 9 and year 2 of the programme, also used as the basis of evaluation reports.

9.3 Post Implementation Evaluation Study

Nine months after the end of resettlement activities, the EM will conduct an evaluation study of severally affected APs and the vulnerable groups among the beneficiary population, based on a follow-up KARE survey of the 20% sample, to determine whether or not the objectives of the RP in terms of restoration of incomes and living standards have been achieved. The methodology for the evaluation study would be based on a follow-up socio-economic survey to determine the impact of the project on income levels and living standards of the APs. The survey data should be compared with the baseline survey information that has been collected during the preparation of the RP. Should the findings of the study indicate that the objectives of the economic rehabilitation have not been achieved, the EM will propose appropriate additional assistance that may be necessary to achieve the stated objectives.

A further evaluation study also based on the 20% baseline KARE survey will be conducted by the EM in Year 2, and reported on to the PIU and to MOWRAM, the IRC and the ADB.

9.4 Monitoring and Evaluation Reports

The outputs for monitoring will include a brief methodological inception report submitted to the Project Manager and a copy to the ADB within one month of beginning of the assignment; and Quarterly Monitoring Reports submitted to the SCRS and PIU with a copy to the ADB within two weeks of the monitoring period.

The output of the evaluation studies in Month 9 and Year 2 will be in the form of a full report covering both the specific results of follow-up surveys and evaluation of the impact and effectiveness of RP implementation following the format of the RP. The draft reports will be submitted to PIU with a copy to the ADB for review within three months from the date of its initiation. The report will be revised and finalized taking into consideration the comments and suggestions of the ADB.

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ADB Stung Chinit Irrigation and Rural Infrastructure Project Resettlement Plan

ANNEXES

Annex A DMS Household Questionnaire

Annex B Information Booklet

Annex C Terms of Reference for External Monitoring of RP Implementation

Annex D Report of the September 2000 Draft RP Beneficiary Consultation and Focus Group Discussions

Annex E Clauses of the 30 August 2001 Land Law Relevant to Involuntary Resettlement and Land Acquisition

Annex F Implementation Schedule: Resettlement and Civil Works

ANNEX A

DMS Household Questionnaire

Annex A DMS Household Questionnaire

**Ministry of Water Resources and Meteorology
Inter ministerial Resettlement Committee
Stung Chinit Irrigation and Rural Infrastructure Project**

**KINGDOM OF CAMBODIA
Nation Religion King**

Questionnaire for Detail Measurement Survey

A. DMS No......SCIRIP Date of interview :...../...../ 2001 Time.....
Interviewer's name..... Supervisor's name
.....

B. Location : House No..... Village..... Commune.....
Khan/District.....
Municipal..... Chainage No..... Left Right
- Lenght from centreline of road to people's land meters
- Lenght from centreline of road to people's house.....meters (from first collum or wall)

C. Ask for head of household (if not present ask oldest adult)

C1. Name and qualification householder :

Respondent name :..... (call name :.....) Age :
..... year
Sex : male female Occupation
.....

The respond of the interview is the household : yes no (if yes , get to C2)
If no, what is relationship with the head of household
.....

Head of household's name : (call name :
.....)

Age :..... year, Sex : male female Occupation (disable widow)

C2. ROW of the canal or drain?

1. Do you use the land of canal/dike ? yes no (if no finish the interview)
2. When did you use the land of canal/dike ? month year
3. Did you ask permission to use this land ? yes no
If yes, who did you ask permission of (Function):..... Date :
.....

4. Did you pay for the use this land? yes no

If yes how much :Riels (convert to US\$:
.....)

5. Do you plan to buy land in the future? ? no yes, What for ?

.....

6. Did you buy land in the last 2-3 years ago ?

no yes, Kind? Why? How big? How much? To who?

7. Do you plan to sell some of your land in the future?

no yes, Why?

8. Do you hire labour/ employ by anyone?

no yes, if yes for - farm - other

9. How many families live in this compound ? 0 1 2 3 4

10. How many members are in the family(if more families living in one compound are total all)

Family member	R. to HH	Age	Sex	Works on Farm Y N	School	Literate Y N	Main job	Second job
1	HH							
2								
3								
4								
5								
6								
7								
8								
9								

Total : persons

- * 1. Farmer 2. Salary of employment 2. Wage labor 3. commerce
4. Craft of Manufacture 5. Transport 6. Factory 7. nil

11. What is the principal income source for the family ?

1. wages or salary 2. manual labor 3. bussines or trade
4. agricultural production 5. fishing 6. other (describe

).....

12. How much of the family income per year :

(from 12/ 2000 –1/2001)Riels (convert to US\$
.....)

How much of the family income (from 04/ 2000 to 03/ 2001) do you get from activities the corridor of impact?

1. 0 – 20% 2. 21 – 40% 3. 41 – 60% 4. 61 – 80 % 5. 81 – 100%

13. How much land does your family own?are (100 are=1 hectare)

How much land does your family use in total?are (100 are=1hectare)

14. Cultivated land

Cultivated land	Owned land		Renting out land		Renting in land		Total area
	ha	Distance from homestead	ha	riels/ha	ha	riels/ ha	
Rice field							
Other crops							
Homegarden							
Total							

15. Agricultural equipment

Type of equipment	Number
Drought cattle	
Ox-cart	
Plow	
Fork	
Tractor	
Water pump	

16. What is the length and width of your land inside the corridor of impact?

Lengthmeter X Widthmeter =m²

17. What is the purpose of your land inside the corridor of impact?

- | | | |
|---------------------|----------------------------|----------------------|
| 1. Rice- field | 2. Home garden | 3. Cash-crop garden |
| 4. Fruit tree | 5. Fish or lotus pond | 6. Parking/ storage |
| 7. Shop/ restaurant | 8. Small store for selling | 9. Other (describe) |

18. Are there different kinds of economically important trees inside the corridor of impact only ?

- | | |
|---------------------------------|--------------------------------|
| 1. Mangotrees | 2. Tamarindtrees |
| 3. Coconuttrees | 4. Bambootrees |
| 5. Palm treetrees | 6. Tropical hardwood.....trees |
| 7. Othertrees (describe) | |

19.Earning income from these economically important trees last year (from 12/ 2000 – 1/2001)

- MangoRiel (convert to US\$.....)

2. TamarindRiel (convert to US\$.....)
 3. CoconutRiel (convert to US\$.....)
 4. BambooRiel (convert to US\$.....)
 5. Palm treeRiel (convert to US\$.....)
 6. Tropical hardwoodRiel (convert to US\$.....)
 7. OtherRiel (convert to US\$.....)
20. Do you have own land near by to replace what you use inside the canal/dike ?
yes no (if no, get to No 24)
Where ?
1. Behind the land inside the canal/dike
 2. It is about 150 meters away
 3. It is farther than 150 meters
- Do you recently use it ? no yes
21. If you were asked to leave the land inside the corridor of impact, and move back several meters
would you lose income or have cost to move what you have inside the corridor of impact ?
yes no (if no, get to No 24)
22. How would you lose income or have costs ?
- | | |
|--------------------------------------|----------------------------------------|
| 1. Replanting, loss of plants, trees | 2. Making new pond, shed, construction |
| 3. Loss of earning opportunities | 4. Other (describe) |
23. Estimate this loss or these cost in Riel (convert to US\$.....)
24. Are you able to buy land to replace you land inside the corridor of impact ?
1. yes 2. no 3. own-land (if no ask question No 26)
25. If yes, at what cost ?Riel (convert to US\$.....)
26. If no, how does losing the land inside the corridor of impact effect your family 's livelihood ?
Describe
.....

C3. Household or Construction in the corridor of impact:

27. Is there a structure inside the corridor of impact?
yes no (if no, get to No C4)
28. If yes , what kind of structure and what is used for ?
 1. Store for sell products
 2. Barn for making crafts

- 3. Eatinghouse
- 5. other (describe)

4. house

29. What construction material is used and how much in total (NOTE: only for construction

inside the corridor of impact) ?

.....m ²	wall :	thatch	wood	land	bamboo	brick, concrete
.....m ²		thatch	wood	land	bamboo	brick, concrete
.....m ²		other (describe				
.....m ²	floor:	bamboo	wood	brick, concrete		
.....m ²		bamboo	wood	brick, concrete		
.....m ²	roof:	thatch	corrugated tin	fibro		
.....m ²		thatch	corrugated tin	fibro		
.....m ³	column:	1. wood				
.....X.....column =		Quality No 1 sizeXXX.....column =				
.....m ³		Quality No 2 sizeXX				
.....X.....column =		Quality No 3 sizeXXX.....column =				
.....m ³		2. Concrete				
.....m ³		sizeXXX.....column =				
.....m ³		3. bamboo				
.....m ³		sizeXXX.....column =				
.....m ³		4. palm				
.....m ³		sizeXXX.....column =				
.....m ³		5. other				
.....m ³		sizeXXX.....column =				

30. How much above material needs to be replaced in case of moving ?

- Wall : m² (or% of total)
- Floor : m² (or% of total)
- Roof: m² (or% of total)
- Column m² (or% of total)

C4. What are other assets on land used with in the corridor of impact?

- 1. well
- 2. pump well
- 3. pondm Xm Xm =
m³
- 4. fence (what materialhow many meters
.....m)
- 5. other (describe
.....)
- 6. nothing else

Signature and Name of Interviewer

Signature and Name of Interviewee

Signature and Name
Member Resettlement Sub-committee of Kampot Thom Province

ANNEX B

Information Booklet

DRAFT PUBLIC INFORMATION BOOKLET

QUESTION: What is the Stung Chinit Irrigation and Rural Infrastructure Project?

ANSWER: The Royal Government of Cambodia proposes to develop or rehabilitate the Stung Chinit irrigation scheme and selected rural roads and bridges and market places in Kampon Thom Province utilising an ADB Loan, French Government and RGC financing for the purpose. This information booklet is to do with the Irrigation Project and with the help which will be given to people affected by canal and drains construction and the development of the reservoir.

QUESTION: Who is responsible for the Project?

ANSWER: The Ministry of Water Resources in Phnom Penh will be responsible for the Irrigation Project, cooperating for the purpose with the Provincial Government through Provincial Departments of Water Resources. A Provincial Project Steering Committee based in the Department of Water Resources and Meteorology will look after day to day running of Project operations. MOWRAM will have a Resettlement Unit to supervise the resettlement plan implementation in cooperation with the Inter-Ministerial Resettlement Committee. Implementation of resettlement plans will be the responsibility of the Provincial Resettlement Sub-Committee and the Department of Water Resources.

QUESTION: Is the Project intended to benefit us?

ANSWER: Yes. The improved Irrigation Project will improve irrigation systems in the areas under wet season irrigation, extend and create new areas of dry season irrigation and improve the supply of water. If you are in the existing irrigation area you will be helped to improve your farm irrigation system.

People living in the Stung Chinit and Stung Tang Krasang river valleys who may be required to move will be assisted to move any houses which are flooded and to develop tree crop production in nearby upland areas. Some people, especially the landless and people with very small land holdings in the irrigated areas may also be helped to have upland farms if they prefer to be relocated.

QUESTION: If there will be improvements to our Irrigation system, will we be affected?

ANSWER: The design and improvement of the Main Canal will lead to some farmers losing land in the increased width of the Canal. Construction of secondary and tertiary canals and drains will lead to some people having to give up a narrow band of land. It is expected that the great majority of farmers will benefit both from improved water supply and production in these areas.

Farmers losing land to secondary canals and drains will be compensated. Farmers with very small farms or households otherwise unable to benefit from a managed irrigation system in the tertiary blocks can be helped by compensation or relocation to other farming areas, if they wish to move, in consultation with Farmer Water User Committees.

Some people will have to move their houses or small shops on the main canal and on some secondary canals. During detailed design, these potential effects may be avoided or minimized since actual alignments of the improved Irrigation Alignments of canals and drains will be decided through consultation with you and the rest of the local community, including Commune Chairmen and Village heads and elected members of Water User Communities and Water user Groups. In case the effects on land, houses and structures cannot be avoided or replaced voluntarily within the community, affected persons (APs) will be properly compensated for their

land use, houses, structures, crops and trees and communal properties, or land being replaced with land or compensated at market price, in order for them to restore their lost asset, resource or income. Rehabilitation assistance will also be provided to APs who wish to relocate in another location.

QUESTION: What if my land will be affected by the Project?

ANSWER: For affected land, compensation can be in the form of replacement land or cash at current market value. Most land lost in tertiary systems will be replaced by voluntary land adjustment, that is, exchanges between farmers, managed by Farmer Water User Committees, so that the loss of land to bunds and canals will be spread among all the farmers. It is expected that the increased production from land irrigated under the new system will more than make up for losses of land and income. If land elsewhere has been the agreed form of compensation between the Project and households, the replacement land should be of equal or better productive capacity to the lost land and should be satisfactory to APs.

Farmers losing land to the secondary canals and drains and embankment roads are entitled to compensation or land replacement, since this is land acquired by Government and will now be state property. If farmers losing land in secondary systems choose land replacement their land loss can be replaced by the community, that is by all farmers taking part in land adjustment in that tertiary block. In that case the compensation will be to all the farmers who donated land for this purpose or the compensation can be provided to the Farmer Water User Group for use in the development and operation of the irrigation system.

QUESTION: Do we need to have a land title in order to be compensated or provided with replacement land?

ANSWER: No. Lack of formal legal rights to land does not prevent any APs from receiving compensation and rehabilitation assistance and permanent land rights. All those APs who have occupied and used the land for five years prior to 30 August 2001 are entitled to compensation. Anyone who has been occupying and using the land after 30 August 2001 and at the time of the detailed measurement survey (DMS) and registration by the Project will be entitled to assistance if they are landless and vulnerable.

However, no one who has moved into the area or acquired land after the DMS and being recorded in the DMS will be entitled to registration or to any compensation or other benefits.

QUESTION: Does compensation apply to my affected houses or structures?

ANSWER: Yes. Houses and structures that will be affected by the Project shall be compensated at replacement cost without deduction for depreciation or salvageable materials. You will be able to build a replacement structure on a land site provided free of charge in a suitable location close to your existing site and agreed by you.

QUESTION: What about my crops and trees?

ANSWER: For annual crops, APs will be given 2 months notice that the land on which their crops are planted will be used by the Project and that they must harvest their crops in time. If standing crops are ripening and cannot be harvested, eligible APs can be compensated for the loss of the unharvested crops at the current market value at harvest.

For perennial crops, APs will be compensated for the loss of fruit and timber trees. The value will be calculated as the annual produce value multiplied by a five-year factor plus the cost of

new sapling trees. APs will be awarded the full value of any lost crops where the plants are near or ready to harvest.

QUESTION: What about our common property resources?

ANSWER: For common property resources, affected land will be replaced in consultation with affected communities and relevant organizations. Affected buildings and structures, including bridges, will be restored to original or better condition. If income loss is expected (e.g. community forest, income from fishpond), the affected village will be entitled to compensation for the total production loss (over 3 years) or will have new areas provided of equal productive value. This compensation should be used collectively for income restoration measures and/or new infrastructures.

QUESTION: If in case there will be relocation of houses or businesses involved, how can the Project help me rebuild my house and shop during relocation?

ANSWER: Houses or other property which have to be relocated or demolished will be paid for at the cost of rebuilding with new materials for structures that cannot be moved. Apart from the compensation for loss of land and other assets at replacement costs, the Project will ensure that the standard of living of APs is maintained or improved after the Project. Therefore, the Project will provide mitigation and subsistence allowance to relocating APs and will ensure that any movement of houses, shops or stalls will be within only a short distance of the existing structures. APs will be assisted to move any movable structures. Any moving or labor costs and any damage to structures will be compensated at full replacement cost. Shops and stalls will be relocated in consultation with the owners and with community representatives to permit the creation of good market access, where possible in small market and residential sites:

- **Household transition allowances** will be provided to all severely AP, relocating APs, and APs losing more than 10% of their total productive landholding. Either \$40 or the price of 6 months rice consumption for all members of the household, whichever is greater, to assist in restoration of income during the transition period.
- **Assistance for training and employment** will be provided to all severely affected farmers and to households that lose more than 10% of their total productive landholding. The Provincial and local authorities will provide advice and support in obtaining training and employment for household members.
- **Transport allowance** will be provided as either provision of transportation by local authorities or cash sufficient to be able to transport possessions.
- **Employee income loss allowance** will be provided to employees or laborers losing income during the civil works. Cash compensation will be paid equivalent to actual lost wages or \$40 whichever is greater.
- **Business Income loss allowance** will be provided to all relocating businesses. A lump sum of \$50 or actual income loss during the transition period of re-establishing the business, whichever is greater, will be provided. For registered businesses that can produce tax statements, compensation will be equivalent to net income loss; for unregistered businesses compensation will be equivalent to provincial minimum wage.

QUESTION: Does that mean that anybody in our community can claim for compensation?

ANSWER: No. Entitled APs are those persons who will have been surveyed during the Detailed Measurement Survey and registered as APs. The cut-off-date of eligibility is the date that the survey was completed. Persons who encroach on the area after the cut-off-date will not be entitled to compensation or any other form of resettlement assistance.

QUESTION: When will the detailed measurement survey be conducted?

ANSWER: The activity is carried out after the actual alignment has been identified, and has been done in November/December 2002 for the main canal and the reservoir areas of the Stung Chinit and Stung Tang Krasang valleys. The DMS survey team is composed of the Provincial Project Resettlement Committee, District and Commune Resettlement Committees, an independent monitoring organisation and representatives from NGOs. The activity will only be carried out in the presence of the APs. The APs and the local authorities are informed prior to the activity.

QUESTION: Do we need to clear the width affected by project works immediately once our land, houses or structures have been identified as affected?

ANSWER: No. Clearing the width required for the works or the reservoir will only take place once compensation for affected land or other lost assets has been received by APs and they have been resettled at the new sites. Once the AP has acknowledged receipt of compensation payment, the Project will provide a reasonable time for APs to clear the area in order for construction activities to commence. The actual clearance schedule will be determined in consultation with the APs.

QUESTION: If there will be disagreements or problems that arise during project implementation such as compensation, technical and general project-related disputes, do I have the right to voice my complain?

ANSWER: Yes. If the AP is not satisfied with the compensation package offered or, if for any reason, the compensation does not materialize according to the agreed schedule, the AP has the right to lodge a complaint.

The APs may present their complaints first to any NGO working in the area or to the NGO that will be specially assigned to monitor resettlement and to help all affected people. The NGO can be present at all meetings and consultations. The NGO will assist you to put your complaint in writing to a Grievance Committee in the village of Commune, and if need be to the District and Provincial Grievance Committee. The NGO appointed by the Inter-Ministerial Resettlement Committee as External Monitor is authorized to check measurements and values of land and structures.

Attempts will be made to settle the issues at the village level through community consultation, involvement of social and resettlement experts as required, NGOs and mediators and facilitators if required. All complaints and resolutions will be properly documented by the concerned resettlement committees, and if necessary can be referred to the District and Provincial Grievance Committees. If not settlement by them to everyone's satisfaction the dispute can be taken to court.

APs will be exempted from all taxes, administrative and legal fees.

QUESTION: When is the Project expected to commence?

ANSWER: The detailed design is expected to start in ____200 ____ . The DMS will begin after the detailed design is completed. Construction of this Irrigation Project is most likely to begin _____ and be completed in ____ 20____.

QUESTION: As a resident of Kampong Thom Province, what can I do to help?

ANSWER: We would like you to participate fully in all consultation meetings and other project-related activities to ensure that you are fully informed and your views are known and taken into account. Your active participation during the survey, detailed design and implementation will allow us to determine measures to mitigate impacts, to identify problems or potential problems, and to identify methods of responding immediately to mitigate these problems.

Farm households which are part of tertiary irrigation blocks are a particularly vital part of the organization of the Project, as they will have to reach agreement among themselves of land adjustment and exchange to create a workable and profitable irrigation system, and they will also have to help the poorest and smallest farmers who may need to be helped by compensation, replacement of their land or relocation to a new agricultural area.

QUESTION: As a community leader, what should I do?

ANSWER: We would like Chairmen of FWRUCs, Coumune Chairmen, Village Headmen and leaders of local associations to inform the community and explain the Project and these measures for resettlement and compensation to them. They should also help in consultations between the Provincial Resettlement Sub-Committee, survey teams, NGOs and household heads and should organise and take a lead in any local meetings. They should also make sure that female headed households, the disabled, landless, very poor or otherwise vulnerable households are looked after and receive their entitlements, including any assistance with relocation, replacement of assets and allowances.

QUESTION: How will you know if these undertakings are kept and the objectives of this Project are met?

ANSWER: All project activities will be monitored by the Ministry of Water Resources Project Management Office, Provincial Resettlement Committee and the NGO appointed as an independent External Monitor. Quarterly Reports will be prepared and submitted to ADB. A post-resettlement impact evaluation will also be undertaken to assess whether impacts of the Project have been mitigated adequately and the pre-project standard of living of APs have been restored as a result of the resettlement and project.

The ADB will also monitor these activities in its regular supervision missions during the period of project implementation.

If you have further queries and suggestions, please call or see us at:

Provincial Resettlement Unit, Provincial Department of Water Resources:

Address:

Phone Number:

ANNEX C

Terms of Reference for External Monitoring of RP Implementation

**DECEMBER 2002 RP
TERMS OF REFERENCE FOR EXTERNAL MONITORING
OF RESETTLEMENT IMPLEMENTATION**

A. Background

The project includes the rehabilitation of the Stung Chinit irrigation scheme in Kompong Thom province. The primary objectives of the Project are to increase agricultural productivity and farmer incomes, and stimulate the rural economy through the provision of irrigation and drainage for 5,000 to 7,000 ha and dry season irrigation for 2,000 to 3,000 ha, and the improvement of rural roads and markets in and around the Project area.

B. Specific Objectives and Components of the Project

The physical components of the project include: (i) repairs to the main diversion weirs on the Stung Chinit river and its tributary, the Stung Tang Krasang, (ii) repairs to the flood embankments and construct new embankments on the eastern side of the main canal and provide drainage structures to protect low-lying agricultural areas between the two rivers, (iii) creation of flood retention dikes for the reservoir in the Stung Chinit and Stung Tang Krasang valleys (iv) introduction of a fish pass structure to allow annual fish migrations, (v) remodeling and repairs to the main and secondary canals (and where necessary, provide assistance to farmers constructing tertiary and quaternary canals) and regulators, along with roughly 60 km of embankment service roads, (vi) improvement of roughly 150 km of rural roads in and around the Project area to reduce costs of transporting inputs and harvested crops, and (vii) upgrading of six local markets that currently lack permanent roofing, drainage, access to clean water, truck loading facilities, and sanitation facilities. Final selection of roads and markets will give strong preference to the views of target beneficiaries through surveys and meetings at the village, commune and district level.

The physical components of the Project will result in the loss of cultivation land that will be inundated after the repairs to the weirs are completed, loss of incomes and houses of some households located on the eastern bank of the main canal, loss of land and houses in the reservoir, and loss of land of households in the irrigation area for improvement of secondary canals, drainage channels and service roads. In accordance with the resettlement policy specified in the RP, all the Project Affected Persons (APs) will be entitled to compensation for their lost assets (land, structures, crops and trees, etc.) and rehabilitation assistance benefits. The RP also provides the policy framework governing compensation, resettlement and rehabilitation.

The core of the policy framework is that all affected persons are paid just and fair compensation for all their lost assets, incomes and businesses based on the principle of replacement cost. An equally important part of the policy is that all the affected persons are duly informed of the project objectives, compensation policy and entitlement criteria, and grievance redress mechanism through an extensive public information campaign and consultation procedures. These policy objectives and compensation entitlements to different categories of affected persons are incorporated in the Resettlement Plan (RP) for the project.

The IRC chaired by the Ministry of Economy and Finance (MEF) will have overall responsibility for implementation and supervision of the RP. The IRC will establish a Stung Chinit Resettlement Subcommittee (SCRS), which will work closely with provincial authorities and the PIU to implement specific activities in the Project area. However, the ADB procedures require independent monitoring of implementation of the RP by an external agency with an objective to assess the adequacy and effectiveness of the implementation of the above policy for the proposed project.

The RP will be carried out by the Resettlement Unit being set up in the PMO at MOWRAM and by the Provincial Sub-Committee and Working Group under the supervision of the Inter-Ministerial Resettlement Committee. These groups will be responsible for the process of community consultation to explain the RP and its entitlements to the inhabitants along the roads, implementing the verification process for confirming individual entitlements and that the appropriate payments are made and establishing and operating the grievance procedures whereby individual appeals related to the compensation process are handled equitably. Internal monitoring of the progress of the RP will also be carried out by these groups.

The external organization to be engaged to provide independent monitoring of the implementation of the RP will submit reports to the Government and the ADB on the effectiveness of the RP in achieving its goals, any corrective measures necessary to the RP during its implementation and the overall effects that resettlement has on the APs, and the effectiveness of measures to restore their property, livelihoods, well being and socio-economic status.

The External Monitoring Agency (EM) will be required to involve itself in all aspects of RP implementation and shall have access to all organizations involved and all project documentation. The selected monitoring agency is expected to begin monitoring as soon as the contract with PIU is affected. The monitoring by the external agency will be carried out independently, with assistance from the SCRS and the PIU. Participation of stakeholders on the EM is a requirement. Thus the EM will provide an effective mechanism for participation of affected community members in external monitoring of resettlement.

This RP has been prepared taking into account the guidelines and policy approved by the ADB in Resettlement Plans for infrastructural development projects involving the involuntary resettlement of populations. If it is found that the principles and practice of RGC for the involuntary resettlement of populations and the ADB guidelines, set out in the ADB Handbook on Involuntary Resettlement, differ, it is the latter which, under the terms of the Loan Agreement, will apply.

RGC is currently, under the direction of the Council of Ministers, establishing a National Policy and Guidelines for Resettlement, which is expected to establish a statutory basis and code of practice essentially in conformity with the ADB guidelines. The external monitor will be expected to provide guidance on any points which may occur in the design and implementation of the RP which appear to differ from or which might be relevant specifically to Cambodian conditions and be adapted to the ADB and Nation Guidelines.

C. Management and Monitoring

The Resettlement Plan will be carried out by the Resettlement Unit set up in the Ministry of Water Resources and Meteorology PMO and by the Provincial Sub-Committee and Working

Group, under the guidance of the Inter-Ministerial Resettlement Committee and with the advice and support of the Project Provincial Steering Committee.

These groups will be responsible for the process of community consultation to explain the Resettlement Plan and its entitlements to the project affected people. They will implement the verification process for confirming individual entitlements and that the appropriate payments are made and establish and operate the grievance procedures whereby individual appeals related to the compensation process are handled equitably.

Internal monitoring of the progress of the RP will also be carried out by the Resettlement Unit. The Detailed Measurement Survey will provide baseline survey data to assist with the evaluation of the overall effectiveness of the overall RP.

The RP requires that the external organization contracted to provide independent monitoring of the implementation of the RP will take these monitoring operations into account in conducting its work. On this basis it will submit reports to the IRC and ADB on the implementation and effectiveness of the RP in achieving its goals. The external monitor will indicate any corrective measures necessary to the RP during its implementation and on the overall effects that resettlement has on the project affected people and on their socioeconomic status and on the effectiveness of measures to restore their livelihoods, wellbeing and property.

These requirements are explained in greater detail in the terms of reference set out below.

D. Requirement for External Monitoring

By agreement between the Royal Government of Cambodia an external organization, which should be an independent non-governmental organization with the necessary experience and resources, will be engaged to provide independent monitoring of the RP. The contracted organization (the external monitor) will conduct observation visits, questionnaire surveys and focal group consultations with project affected people and communities to determine the effectiveness of compensation and related assistance, and of measures to replace or relocate services and amenities which contribute to their welfare and livelihoods.

For this purpose the external monitor will utilize the baseline DMS socio-economic survey and cadastral survey carried out for purposes of the project, and which will have established the existing land and property rights and incomes of project affected people as the basis of compensation and resettlement planning. The external monitor will consult as necessary with the Inter-Ministerial Resettlement Committee and the ADB Resettlement Consultant and will be guided by them to ensure that the means and approach which it adopts are fully adequate for purposes of monitoring the RP.

Monitoring, as envisaged in these terms of reference will be of three kinds: the first will be that of random visits to observe and record the effectiveness of measures undertaken to meet the objectives set out in the RP to minimize the adverse impact of the program on the people and communities adjacent to the roads being upgraded. The second will be a sample survey of the knowledge, attitude, response and experience (KARE) of project affected households in regard to resettlement procedures and benefits. This KARE survey will be conducted at two stages during the period of the contract: a benchmark questionnaire survey, based on a sub-sample drawn from the 100% socio-economic survey population, and follow-up survey using the same panel sample: the first eight months after RP implementation, and further surveys in years 3 and 5 of the sub-project. Thirdly the external monitor will be responsible for providing detailed

data on household income and expenditure and on agricultural and off-farm economic activity of APs in the sample benchmark and follow-up surveys, for purposes of supplementing DMS data in assessing any losses of income and livelihoods.

One of the purposes of the KARE survey is to establish a long-term basis for the monitoring and ongoing evaluation of the varying awareness, responses to, actions and experience of project affected people, based on the same panel sample of households, in respect not only of the impact of resettlement but also of benefits and developmental opportunities which the rehabilitation of the irrigation system, related infrastructure development and choices in the resettlement program may bring about over time. It will permit the monitoring and evaluation of follow up actions which Government or others may take to achieve the benefits or to alleviate adverse effects of the sub-project and of resettlement.

The contract established with the external monitor will be for three year's duration, inputs of time of staff being phased to permit both random visits and observation and the three rounds of visits to households included in a Knowledge, Attitude, Response and Experience (KARE) survey. The latter is provisionally planned as a questionnaire benchmark survey conducted with 20% of AP household heads and their spouses of their knowledge, attitude, response and experience of project actions, effects and benefits and follow-up surveys eight months and three years later.

Random visits and observation of resettlement implementation, compensation payments, consultations and grievance settlement procedures will go on continuously, according to a planned timetable to be established by the external monitor in agreement with the Resettlement Unit and the Inter-Ministerial Resettlement Committee.

E. Specific Purpose of the Contract

The specific overall purpose of the external monitoring contract is to provide independent monitoring of the implementation of the RP and of its impact. In particular the external monitor is required to examine and report rigorously on the effectiveness or otherwise of measures taken, including physical works and compensation, to ensure that the means of production, structures, livelihoods and welfare of project affected people is restored through these measures, for each affected individual, household and community, to at least the level which they enjoyed prior to the impact of the sub-projects; that their knowledge and experience of planned resettlement actions, grievance procedures and compensation, their participation in the consultation process, in decision making and in the reconstruction and replacement of structures and services is consistent with the planned objectives of the resettlement program; and that they are assisted to take part in and benefit by development opportunities arising from resettlement and from the sub-project.

F. Methodology

F.1. The sub-sample Knowledge, Attitude, Response and Experience (KARE) survey.

To establish a benchmark KARE database, the external monitor will select households for interview from a random sub-sample drawn from the DMS socioeconomic survey population, designed according to criteria set out by the Inter-ministerial Committee and the ADB Resettlement Consultant, with three purposes:

- to determine the knowledge, attitude, responses and experience of (or impact on) household members in regard to resettlement and sub-project actions, on household income and expenditure, employment; production systems, commerce and other means of livelihood, health and welfare of household members;
- to identify the knowledge about and attitudes towards measures, including consultation and grievance procedures, taken or proposed in respect of resettlement and compensation of project affected households, individuals and communities; and
- to establish a panel sample and provide the benchmark data which will permit a second and future surveys to study the knowledge, attitudes, response and experience of the project affected population over time.

The size and structure of the sub-sample will be designed to achieve statistical validity for the whole population (provisionally suggested to be about 20%, i.e. about 36 households). It will be drawn by random selection from the already completed list of accredited APs.

The analysis of the database and K.A.R.E survey will permit:

- (a) the participation of the External Monitor in project evaluation, providing Evaluation Reports on the implementation of the RP twice during the year to the ADB and to the IRC
- (b) the planning and monitoring of resettlement, and future actions which may be taken, in accordance with ADB Guidelines, as a developmental operation and not just as one which alleviates adverse effects and maintains the status quo ante of the population.

It will permit the question to be asked, how and to what extent will the concerned communities and households be assisted to participate in and benefit from the social, environmental and economic development, and in the avoidance of adverse effects, which the sub-project and resettlement may bring about.

For this purpose the sub-sample will be structured to represent the distribution by size, composition and economic base of households, including vulnerable households, found in the total population in the impact area of the sub-project.

The sub-sample KARE survey will establish the panel sample of households which will be monitored during and after the RP implementation. That is to say, the same selection of households will be maintained for study and consultation in follow-up visits and survey, both in the project monitoring exercise and in future development planning and operations.

The External Monitor is asked to comment on this proposed structure and purposes of the KARE sub-sample survey and to say how its purposes can best be achieved.

F.2 Monitoring by Visits and Observation

Visits and observation conducted by the External Monitor for purposes of monitoring the resettlement will include random field visits during the implementation period to locations where resettlement activities are taking place, to ascertain that:

- (a) replacement plots are selected in accordance with the approved Resettlement Implementation Plan;
- (b) the affected people are adequately informed of project objectives, impacts, compensation policy and entitlements through an effective public information campaign;
- (c) the compensation and other allowances due to the project affected people are paid in full and the payment activities are carried out in public and in a transparent manner; the compensation has been duly paid prior to the start up of construction works on the project;
- (d) the re-siting and rebuilding of structures of vulnerable groups and other assistance to support the replacement of their means of livelihood and welfare are carried out in cooperation with the concerned communities and with the Provincial Resettlement Sub-Committee;
- (e) replacement of means of livelihood of all project affected people, including restoration or replacement of employment, self-employment, production, service or commercial activities are undertaken in a manner which is effective and with sustainable benefits;
- (f) re-siting and replacement of communal facilities, including minor roads, market places, schools, health centers, wells, ponds, drainage or other communal structures included in the RP are undertaken in a timely and sustainable manner in accordance with the wishes of the community concerned;
- (g) project affected people's own actions and initiatives to benefit from resettlement and from economic or social development opportunities arising from the sub-project are known to and assisted by the Provincial Resettlement Sub-Committee and other concerned agencies;
- (h) the grievance procedures are adequately explained to the affected people, written grievances are submitted to an agreed format (where need be with the assistance of the External Monitor, grievances, if any, are duly resolved, and arbitration, where required is properly and effectively conducted in accordance with national guidelines on involuntary resettlement, with the Land Law of 30 August 2001 and with the provisions of the RP.

The External Monitor is asked to put forward any proposals which it may have for the monitoring the social, nutritional and health status of specific groups, such as children, women and elderly people, which may be adversely affected.

F.3 Monitoring and Evaluation Indicators⁷

The verifiable indicators set out below are chosen, subject to any amendment or proposals of the external monitor, as being readily accessible, emerging in a systematic way in the planned surveys and observation which are instruments in the monitoring methodology, and indicating in specific ways the effectiveness and impact of project activities and investments. Wherever possible, to assist in the analysis of changes taking place, they provide quantitative data, and thus permit quantitative as well as qualitative analysis.

- (a) 100% of project affected people are aware prior to compensation of the compensation and benefits system and have an accurate understanding of their entitlements;
- (b) Project affected people and their communities and leaders are aware of and participate in the overall planning and development of the project and of related activities;
- (c) Full compensation has been paid to 100% of project affected people;
- (d) Grievances and complaints are effectively registered and dealt with, are progressively reduced to an acceptable minimum, and are dealt with in 100% of cases through informal agreement or are settled transparently and fairly at adjudication panels for dispute settlement within 30 days of being lodged or through arbitration within a stated period;
- (e) Livelihoods, incomes and the well being of 100% of project affected people, including vulnerable groups (landless, female headed households, disabled, low income earners, aged, ethnic minorities etc) are maintained or replaced to their satisfaction and they are not disadvantaged by compensation for or the relocation of houses, or by land acquisition, compensation, replacement or relocation;
- (f) Transparency of compensation disbursement is adhered to at 100% of payments centers;
- (g) Commune Resettlement Committees are in place in all communes prior to relocation and are able to act as focus groups for purposes of IRC consultation with and information to project affected people.
- (h) Community structures and services, including wells, drainage and sanitation structures, water pumps, spaces for transport and public use, safety elements of road front and pedestrian and children's play areas, meeting and market places and school and health structures, are replaced by direct action of Provincial or District Government agencies, or are the subject of agreed compensation to communities

⁷ Note: By indicators we mean measurable social, economic, physical or institutional factors or conditions which are expected to be actively brought about, or which come into being, which are verifiable and are readily accessible to the monitoring and/or evaluation system. The presence or otherwise of these factors indicates the effectiveness or impact of performance in project implementation, achievement of planned project actions and investments and the attainment of project specific objectives and stated wider project goals.

- willing to construct them, to at least the standard of the existing facilities, and are completed on schedule;
- (i) The Corridor of Impact within which construction will take place and individual or communal structures and activities will be excluded or removed is clearly marked by pegs, tapes or similar clearly visible markers either at the borders or at the center line, and that the width and area of works is clearly known both to APs and to design, managing and operational managers and contractors;
 - (j) The need and options for mitigation and minimization of impact on APs and AP structures, including community structures (see item h above) by means of changed alignments or by changes in the width and profile of the works and COI are clearly known and acted on by design, managing and operational managers and contractors and are discussed and agreed with AP representatives and with Provincial, District, Commune and Village Resettlement Sub-Committees;
 - (k) Potential benefits from channel rehabilitation and development are known to 100% of project affected people, and they have the opportunity to contribute to and achieve these benefits by inclusion and active participation in activities, planning and investment linked to the irrigation system and related infrastructures restoration and related development, in accordance with the provisions in RPs;
 - (l) land title is registered and certificated for all household heads identified within the socioeconomic survey for land confirmed in situ or relocated or in any programs of land adjustment and readjustment;
 - (m) the health and nutritional status of vulnerable groups, including children, women and elderly people is not adversely affected by the impact of the resettlement program.

G. Outputs

The following are the expected outputs of the monitoring contract:

- (a) The contractor provides a monitoring team, including a team leader and two supervisors, capable of working independently under contract to monitor performance, impact and effectiveness of the Project Resettlement Program;
- (b) The team and concerned officials are trained in the monitoring systems and capable of applying and replicating it in future projects;
- (c) A structured sub-sample is established permitting the development of baseline and monitoring data regarding the knowledge, attitude to, response and experience of project affected people and the use of this baseline data in program follow-up surveys at eight months, three years and five years after the implementation of RPs and in continuous random monitoring and observation;
- (d) Verifiable performance and impact indicators are established for the monitoring system and the team and concerned officials trained in their use and analysis;

- (e) A computerized data processing system is established and utilized in data tabulation and analysis for baseline reporting and database development and for the conduct of and reports on monitoring – manual data management may be employed where this permits more rapid tabulation and reporting;
- (f) A system of random observation permits qualitative reporting on performance and effectiveness in the resettlement, compensation, livelihood restoration, and relocation programs, on the participation of community leaders and municipal authorities in these programs, and on the establishment and working of grievance and complaints resolution and arbitration;
- (g) Inception and progress reports permit management information to be developed and to operate in support of the coordination and implementation of the RP, its supervision and evaluation by the Inter-ministerial Resettlement Committee, MOWRAM PMO and ADB;
- (h) A Final Report provides analysis of the performance, impact and effectiveness of the Resettlement Plan, related compensation and benefits, and the application of these developments and related methodologies to future projects, including social and economic development programs linked to resettlement, and to irrigation rehabilitation and reconstruction.

H. Detailed Terms of Reference for the External Monitor.

H.1 Characteristics of the External Monitor

The selected external monitor shall be an independent organization, located in Cambodia, with experience of the study, design and, if possible, monitoring of social and economic aspects of development projects, and of related research and consultancy.

The external monitor should itself have senior personnel with relevant qualifications and experience in these areas, but may draw on other expertise, both expatriate and Cambodian to ensure the high technical standard of the team which it proposes to employ in the monitoring exercise. Research or university institutions and private companies with specific research and consultancy capabilities as their main interest will qualify in the category of independent organization for purposes of this contract.

The external monitor shall be registered with the appropriate authorities in Cambodia, It will be able to provide details of its constitution, staffing, board members and accounts in accordance with Cambodian law if required to do so.

An important aspect of the monitoring exercise will be the ability of the external monitor to deploy capable and mature interviewers, capable of assessing the social, economic and financial situation of project affected people to uniform criteria, professionally led by experienced supervisors and by a team leader with experience in similar survey operations and their analysis. The quality of the staff at the three levels which are envisaged – team leader, supervisors and interviewers – is regarded as the most important element of the monitor's capability, and will be evaluated as such in the selection of the contractor.

H.2 General Requirements

The monitoring will require a high level of discipline in the administration of a household questionnaire KARE survey, based on the sub-sample survey and the DMS socio-economic survey. This will be developed in accordance with a set of indicators which will be agreed in discussion with the Inter-Ministerial Resettlement Committee and its officers, and with MOWRAM PMO and Resettlement Unit.

The monitoring team leader will for this purpose discuss with the IRC and its officers and consultant the use of community focus groups and of the sub-sample survey for purpose of intensive and qualitative data collection and analysis.

The external monitor will also establish a methodology for the monitoring of a consultative process and public information conducted through focus groups and by other means by the IRC and its officers.

The external monitor should indicate:

- the structure of monitoring teams proposed for the program and the manner in which they will be deployed and managed in the field;

- the work schedule which it proposes, including field surveys and interviews (two surveys to be conducted at a eight months interval and further surveys at year 3 and year 5) data processes and analysis, and report writing and presentation;

- its capability and the means at its disposal to undertake computer analysis of multiple factors in reaching both aggregate and disaggregated data from the results of surveys.

It should also indicate its approach and methodology for achieving a clear and reliable presentation of qualitative factors in the monitoring of the impact and effectiveness of resettlement and of measures to alleviate its adverse effects. The monitoring program team leader will be responsible for managing both the field surveys and the analysis of survey data, and for reporting on behalf of the External Monitoring contractor.

The ADB and IRC places great stress on the need for both quantitative and qualitative data and for analysis and presentation which will genuinely reveal the impact on and attitudes and experience of project affected people of the resettlement program and of compensation and assistance with restoration of individual, household and community assets and means of livelihood.

There are four aspects of this process which are of critical importance:

- the knowledge and understanding of project affected people and communities of, and their responses to, the process and resources which are committed to achieve least possible negative impact of the irrigation rehabilitation works on their livelihoods and wellbeing;

- the characteristics and situation of vulnerable groups and the effectiveness of steps taken and resources provided to minimize the negative impact on them of resettlement and of Project works;

the effectiveness of actions taken to achieve levels of livelihood and incomes at least at the level previously obtained by the project affected people and their communities, including the steps taken to bring about replacement of any loss of agricultural production, commerce and employment to them;

the participation of project affected people and their communities in decision making and activities to achieve the intended purposes of the program, to alleviate its negative impact and bring about at least equal levels of livelihood and well being and to provide opportunities, derived from the resettlement and from project works, for their involvement in social, environmental and economic development..

H.3 Responsibilities of the External Monitor

1. The External Monitor will provide a team leader, supervisors and interviewers for purposes of conducting the monitoring of the impact on project affected people initially in the Main Canal and reservoir areas and subsequently in secondary and tertiary systems and in drainage canals over a three year period. The provision of staff is expected to require the following inputs of staff-months⁸:

Team leader	6 staff months
Supervisors/data processors	12 staff months
Interviewers	24 staff months

2. The External Monitor will carry out surveys and studies for the monitoring of the impact of the project on APs in accordance with the approach and outline program set out above, and will for that purpose propose a methodology, schedule of inputs and work program for discussion and agreement with the Inter-ministerial Resettlement Committee and its officers, MOWRAM PMO.
3. The monitoring team leader will, together with a management representative, represent the contractor in all discussions and technical decisions taken jointly with the Inter-Ministerial Resettlement Committee and its officers and MOWRAM PMO and Resettlement Unit, and will (together with any management support the external monitor may propose) be responsible for management and for coordination of the monitoring team's work with local authorities and representatives of the concerned ministries and other agencies.
4. The monitoring team leader will be responsible for all reporting to the Inter-Ministerial Resettlement Committee, and in particular for providing:
 - an Inception Report four weeks after the commencement of the contract, including technical annexes on the KARE questionnaire survey and the monitoring methodology;

⁸ The contractor should make his technical and financial proposals on the basis of this input of staffing; however, the I.R.C. reserves the right after consultation to ask for a different breakdown of the contractor's staff inputs to achieve optimum efficiency.

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- monthly progress reports throughout the conduct of the contract, including administrative and financial reports;
 - a baseline survey report, on the conduct and analysis of the sub-sample survey of households of project affected people;
 - Periodic interim reports on the monitoring of project affected people in each Commune and District;
 - Specific reports, as agreed from time to time with the IRC and the ADB Resettlement Consultant, and including reports on follow-up survey and evaluations at eight months and during years 2 and 3;
 - A Final Report, including:
 - technical reports on the completed baseline survey, panel sample and monitoring system,
 - a technical report on the results of the monitoring exercise, and the external monitor's recommendations:
 - on the future conduct of consultation, public information, compensation payment, resettlement, grievance procedures and AP participation in the RP and such other aspects of the RP as may be requested by MOWRAM PMO and the IRC;
 - on the future conduct, methodology and structure of the monitoring of the impact on project affected people and their communities of resettlement under Project.

ANNEX D

Report of the September 2000 Draft RP Beneficiary Consultation and Focus Group Discussions

Annex D Report of the September 2000 Draft RP Beneficiary Consultation and Focus Group Discussions⁹.

A. Objectives of Public Consultation and Focus Group Discussion

The main objective of public consultation and focus group discussion included:

- (i) information dissemination about the project and its objectives;
- (ii) to increase awareness of the positive impacts of the project on the beneficiary population and overall economic benefits to the project area due to the increased agriculture production, marketing and employment opportunities;
- (iii) assess perceived benefits and adverse impacts of the project;
- (iv) to inform the possible limited adverse impacts on some households due to the loss of small strip of farmland required for the proposed civil works and feedback from people on possible strategies for equitable distribution of benefits and losses;
- (v) to identify vulnerable groups among the beneficiary population and assess the types of impacts due to the project and proposed civil works; and
- (vi) to develop, in consultation with beneficiary population and focus groups, strategies to mitigate adverse impacts and suitable assistance package for vulnerable groups.

B. Methodology

Information was collected through consultation with beneficiary population in selected villages, especially those located west of the main canal, and focus group discussion at selected locations.

Beneficiary consultation and focus-group discussions were conducted in five different locations, between March 20-24, 2000, covering 12 villages located west of the main canal. In all, there were eight consultation sessions and three focus group discussions. A total of 219 members of the households participated in public consultation and focus group discussions, of which 74 people participated in three focus group discussions and the remaining 145 participants attended the consultation exercise. Participants for these sessions were randomly selected from the list of households given by the chief of the villages in the five locations. All sessions were held at the respective community. The number of discussions or consultations held in each location was determined proportionate to the number of households in each location. The three focus group discussions included participants from more than one village.

- *Location 1:* A focus group discussion and two consultations (in four villages: Phum Kang Sao, Phum Chhoeu Teal, Phum Kley, and Phum Snor) were

⁹ The September 2000 RP Annex on consultation and focus group discussions is reproduced here as a valuable record of the attitude and knowledge of the concerned members of the two communities near the Stung Chinit weir and on the main canal which were at that time thought to comprise most of the affected people.

undertaken. The focus group discussion was attended by 25 participants from Phum Kang and Phum Chhoeu, comprising of women headed households and small holders. Consultation sessions in Phum Chhoeu and Phum Kang Sao was attended by 10 participants, and in Phum Kley and Phum Snor by 38 participants.

- *Location 2:* A consultation in Phum Kvek village was organised which was attended by 21 participants.
- *Location 3:* A focus group discussion and a consultation were organised in five villages (Phum Pren, Phum Trapeang Tem, Boeung Lvea, Phum Koh Bangkeu, and Phum Tapeang Prey). The focus group discussion was attended by 27 participants comprising of women headed households and small holders. A separate session of public consultation in these villages was participated by 24 people.
- *Location 4:* A consultation was held in Phum Takor village, attended by 27 participants.
- *Location 5:* A focus group discussion and consultation were held in two villages (Phum Tbeng and Phum Sang Kros). 22 participants included women headed households, widows, old aged and disabled persons, and small landholders. Additionally, consultation with village population was attended by 25 participants.

The discussions and consultations in each location revolved around four prime questions: to what extent would the project benefit households; to what extent would the project negatively affect the households; how could impacts be mitigated; issues of concern to vulnerable groups and possible strategies to mitigate adverse impacts.

C. Perceived Benefits and Challenges

Perceived benefits from the projects include the following:

- (i) Majority of the participants expect that in addition to the 2000ha benefited directly by dry season irrigation, more land may be benefited indirectly by the availability of the water, benefiting population larger than the envisaged by the project. They are also aware of the possibility to cultivate commercial crops, vegetables and fruits. Additional fishing opportunities are well-known to people. Availability of water, on a regular basis, will also improve animal health and livestock.
- (ii) At least one-third of the participants believe that pressure on natural resources will be reduced as subsidiary sources of income multiply.
- (iii) Other business opportunities will be increased when people become better off.
- (iv) Good living environment due to cool and fresh air.
- (v) Increased accessibility to many places around flood prone areas by the use of boats.

The followings are potential negative impacts from the project of concern to the participants:

- (i) Difficulty in raising animals, live-stock and even growing vegetation due to permanent floods in some upstream areas.
- (ii) Most villages in location 2,3,4,5, and 6 will be difficult to access due to road inundation.
- (iii) Firewood, the traditional fuel for cooking, will be in short supply due to inundation.
- (iv) Cultivation areas that is currently used by the beneficiary population would be lost due to inundation.
- (v) Some households will lose part of their farm land due to canal and roads for the proposed irrigation works.

D. Major Issues and Concerns

The details of the focused group discussions and beneficiary consultations are elaborated below.

1. Small Land Holding Size

The discussions indicate that the disparities in agricultural land ownership and operation, and the presence of a substantial landless or small land owning and farming group, appear to be increasing. Average farm size is around one hectare per household. This has not altered in the last ten years. One-fifth of the participants reported having transferred land parcels to their siblings. It is not clear as to how much land has been actually transferred for a price. Our discussions with the local line agencies and NGOs confirmed land sales taking place in the area, but could not provide further details. The reasons for reducing land holding sizes include: a) population growth and the fragmentation or subdivision of land ownership and land operation; and b) land sales to meet debts or other needs, especially by poorer farmers who are unable to raise credit and have no other assets. Many participants having small land holdings were anxious about the proposed land requirements for the civil works but agreed to participate in land readjustment exercise.

2. Lack of Security of Tenure

In a focused group discussion, at least half of the participants asserted that the failure of the Government to implement land titling and ensuring a land security for vulnerable communities as a predominant reason for increasing landlessness in the area. Reasons offered include (a) instances of corruption; (b) delays in getting land titles; (c) procedures for application and land titling too complex and not properly explained; and (d) high costs to applicants when obtaining title.

3. Depleting Community Resources

Several participants reported the lack of common property resources in the area, especially grazing land for the cattle, and firewood areas. One participant, talked about lack of 'regulations

to govern' the resources. "Degradation of common property resources in my village is the fault of governance. The resultant encroachment and illegal use of common property resources is due to muscle power," said Srey Peou, community leader in Kvek village.

4. Resource Constraints

At least one-third of the families informed that in the last two decades the cultivated area was declining due to non-availability of water. Some families have reportedly been keeping the land while serving as laborers in other farms to earn a livelihood. Hem Chanthou, 45 years, farmer said: "I have not cultivated my land since 1983. However, I could not sell it also. For so long no one wanted to buy because of lack of water. The news that the irrigation system will work soon has given hopes to my family. I am sure in the two or three years, we will start cultivating our land". Land which has been left fallow for many years due to the lack of access to water for irrigation purposes will require additional inputs to make it viable and productive again. Many participants reported of having no savings to buy new farm inputs.

5. Maintenance of Facilities

Many participants believe that the government's inability to provide resources on time had damaged the irrigation facilities in the past. Additionally, they informed that the weirs and main canal were damaged as a result of vandalism and fishing activities. The use of explosive devices to collect fish has caused serious cracks in the structures. Uncontrolled use of weirs for fishing purposes seriously affected rice production and has lead to much anger among the villagers. Since the destruction of weirs and some parts of the main canals the total irrigation system has not been in use, especially the secondary and tertiary lines. More than half the participants noted that productivity of rice has been gradually declining, particularly since 1985 when the system finally broke down and was rendered inactive. At present, some households are using the canals for cropping. However, those households promised to return this land for irrigation purposes when needed.

6. Water Sharing

The issue of water sharing was raised as a potential trouble spot, particularly for households with the smaller landholdings who might be disadvantaged in the distribution of supplies and powerless to redress the imbalance.

E. Issues of Concern to Vulnerable Groups

There are many female headed households in the area and with no local organization for women in existence, they too emerge as a particularly vulnerable group, for whom access to supplies of water, protection from land grabbing and lack of ability to protect their rights is a major concern.

Women members at the focus group discussions were concerned about their access to common property resources. According to them, for example, grazing land, forests, rivers and lakes, had in the past contributed substantially towards the livelihood and food security of their families. Access to these resources is slowly being restricted by a combination of factors. Groups in the consultations reported that, in the past, fishing rights and the use of common land resources such as sand, which the poor have traditionally made use of to engage in off-season brick-making, were decided at the village level by the households themselves. Now these rights are being decided by commune or district authorities and big building contractors have gained access to these resources through land leases.

Notwithstanding the above concerns, most female-headed families hope that the new reservoir would minimize their rice farming problems. Though most of the female-headed families owned less than one hectare of land, their confidence was summarized by Houn Sathea, 56 years, a resident in Snor village, widowed in 1978, thus: "In 1979, I was not happy to have survived. It took several years for me to reconstruct my life and gain confidence. I could not think of buying more land or other assets. By 1987, I not only lost rice land but also hope for continued survival. For several years, I worked as a laborer and my daughters worked in other farms. The news that the reservoir would be rehabilitated has given me confidence".

F. Key Findings of the Focus Groups Discussion and Consultations

Participants actively participated to discuss issues and possible solutions that concerned all stakeholders in the development of the Stung Chinit Water Resource. It was clear that the focus group discussions and beneficiary consultations were important input for the development of a realistic and acceptable project proposal for funding the reconstruction of the irrigation system. The major outcomes of the focus group discussions and beneficiary consultations were:

- (i) Commitment by the beneficiary groups on Land Readjustment Approach and Water's User Associations. Most participants agreed to voluntarily contribute small strip of their farm land if necessary for rehabilitation and construction of secondary canals, drainage channels and service roads.
- (ii) Awareness of the project development by all stakeholders and necessity to support and share losses.
- (iii) Necessity of setting up of WUGs and WUCs, consisting of representatives from beneficiary population and other stakeholders.
- (iv) There was a significant demand of water for dry season cultivation while some adverse affect were also seen.

Key observations resulting from the discussions and consultations include the following:

- (i) Those who have land downstream are happy with the proposed project
- (ii) Most households downstream are occupying some land upstream but the sizes of land holdings are smaller than those held downstream. They were happy with the proposed project.
- (iii) Smaller land holders were observed to be more satisfied with the proposed project than those who hold bigger land parcels.
- (iv) Some households in location 4,5, and 7 are occupying some land far upstream.

G. Mitigation measures

Suggested mitigation measures include the following:

- (i) In order to rehabilitate the irrigation systems and secondary canals, it is inevitable that some farmlands of households who are currently cultivating will be lost. In this case the groups agreed to share land up to 2 meters wide strip, if necessary for land readjustment approach. Land readjustment must ensure equitable distribution of benefits and losses of different land holdings sizes and that the small land holdings remain economically viable.
- (ii) Following land surveys and land readjustment, all the households must be provided with land titles.
- (iii) The Project should also make provision for credit facilities to enable farmers purchase necessary farming inputs and implements. Special attention should be paid to the women headed households, small holders and poverty groups.
- (iv) In order to construct tertiary canals, the groups agreed to establish Water User's Associations and the necessity to contribute to the cost of construction and maintenance. Women and small landholders should be adequately represented in the farmer organizations and water user groups.
- (v) There is a need to construct some roads and dikes to protect certain areas from serious flooding. Detailed technical leveling and design should be undertaken to identify potential flood areas.
- (vi) To sustain the project there is a real need to establish WUCs consisting of representatives from landholdings along secondary canals, and ensuring participation by women, women-headed households, small landholders and other vulnerable groups that are farming in the Project area.
- (vii) Need for well regulated water level so that upstream farmland and villages won't be seriously affected.
- (viii) Provision of alternative techniques for cropping so that flood prone areas can be made productive.
- (ix) There may a need to construct flood protection measures such as dikes to protect some cultivation and settlement areas of village La'ak (Location 6).
- (x) Some land east of the main canal must be reserved for community resources such as grazing and firewood.
- (xi) Beneficiary population should be asked to release the east of the main canal that is currently used by the households from beneficiary villages. The land thus released could be used for allocation to the affected households of village Taphok as replacement land to compensate for their loss of land that will be inundated when the weirs are repaired.

ANNEX E

Clauses of the 30 August 2001 Land Law Relevant to Involuntary Resettlement and Land Acquisition

Cambodian Land Law 20 July 2001: Clauses relevant to involuntary resettlement and land acquisition.

a. Article 1:

This law has the objective to determine the regime of ownership for immovable properties in the Kingdom of Cambodia for the purpose of guaranteeing the rights of ownership and other rights related to immovable property, according to the provisions of the 1993 Constitution of the Kingdom of Cambodia.

b. Article 2:

Immovable property within the meaning of this law includes immovable property by nature, immovable property by purpose and immovable property by law:

- Immovable property by nature means all natural grounds such as forest land, cleared land, land that is cultivated, fallow or uncultivated, land submerged by stagnant or running waters and constructions or improvements firmly affixed to a specific place created by man and not likely to be moved;
- Immovable property by purpose means things fixed to the ground or incorporated into the constructions and which cannot be separated there from without damaging them or altering them, such as trees, decorative attachments, as well. .
- Immovable property by law means all rights in rem over immovable and movable properties that are defined by law as immovable property.

Translation notes:

Point 1. This translation uses the word “construction” for the Khmer term [], meaning something that has been

The Khmer term [] literally translates “something made and firmly affixed to a specific place created by man designed to make the property more useful or valuable as distinguished from ordinary repairs.” Webster's Intern

Point 2. The common English term for “immovable property by purpose” is “fixtures.”

c.

Article 3

All persons shall respect the property of the State and legally acquired private property.

The management of the cadastral administration of immovable property belonging to the State and the competence to issue titles related to immovable property throughout the Kingdom of Cambodia are under the authority of the Ministry of Land Management, Urban Planning and Construction.

The regulations and procedures for the administration of State immovable properties will be determined by sub-decree.

Translation note: The word “persons” used in the first sentence is based on the Khmer word [], which includes natural and legal persons. Compare with the terms used in article 9.

Explanatory note: This article is based on article 50, paragraph 2 of the Constitution of the Kingdom of Cambodia.

4. TITLE I – PRIVATE AND PUBLIC OWNERSHIP

Explanatory note: The words “ownership” and “property” can mean the same thing in English – the exclusive right to own, possess and dispose of something. The word “property” also means the thing or object that a person owns. In this translation, the word “ownership” is used for the Khmer word [] to mean the right to own, possess or dispose, and the word “property” is used for the Khmer term [] to mean the object (land, structures, etc.)

Chapter 1 – Principles of Ownership

Article 4

The right of ownership, recognized by Article 44 of the 1993 Constitution, applies to all immovable properties within the Kingdom of Cambodia in accordance with the conditions set forth by this law.

d.

Article 5

No person may be deprived of his ownership, unless it is in the public interest. An ownership deprivation shall be carried out in accordance with the forms and procedures provided by law and regulations and after the payment of fair and just compensation in advance.

Translation note: The word “persons” used in the first sentence is based on the Khmer word [], which includes natural and legal persons.

Compare with the terms used in article 9.

The requirement under this article is based on Article 44 ¶3 of the Constitution.

e. Article 6

Only legal possession can lead to ownership.

The State may also provide to natural persons or legal entities of Khmer nationality ownership over immovable property belonging to the State within the strict limits set forth in this law.

All transfers or changes of the rights of ownership shall be carried out in accordance with the required general rules for sales, succession, exchange, gift or by court decision.

f. Article 7

Any regime of ownership of immovable property prior to 1979 shall not be recognized.

g. Article 8

Only natural persons or legal entities of Khmer nationality have the right to ownership of land in the Kingdom of Cambodia.

Thus, the following persons or entities may be owners of land in Cambodia: Cambodian citizens, public territorial collectives, public institutions, Cambodian communities or associations, public enterprises, Cambodian civil or commercial enterprises and any Cambodian organization which is recognized by law as a legal entity.

A foreigner who falsifies national identity to become an owner of land in Cambodia shall be punished as determined under article 251 of this law. Any property bought under these circumstances will be seized as State property without compensation from the State.

Explanatory notes: This article refers to the ownership of “land,” as distinguished from other types of “immovable property.”

h. Article 9

An enterprise registered in Cambodia, in respect of which 51% or more of the shares are held by natural persons of Cambodian nationality or by Cambodian legal entities recognized pursuant to the laws of Cambodia, may be the owner of land. Only percentages stipulated in the articles of incorporation are taken into account. Any private agreement signed by a shareholder that is contrary to this article is null and void.

If percentages stipulated in the articles of incorporation are changed in a way that it [the enterprise] ceases to be Cambodian, the enterprise has the obligation to amend the articles of incorporation to comply with the actual circumstances and shall inform to the competent institutions of such amendment according to the laws in force.

Explanatory notes: The phrase “articles of incorporation” refers to the written agreement that sets out the purposes and other terms and conditions of a business enterprise or corporation. Some jurisdictions use the phrase “statutes.” The phrase “articles of incorporation” is always used in the plural, and it should not be confused with the word “article” used in the last sentence of paragraph 1.

i. **Article 10**
Ownership by a person, whether natural or legal, is individual ownership.

Ownership by a group of persons exercising their prerogatives through a legal way regulated for such ownership is collective ownership.

Ownership by several identifiable individuals collectively exercising their rights over the entire property is undivided ownership.

Ownership by several persons exercising exclusive rights over certain parts of the property, and [where] the other parts, named common parts, are subject to legal rules or contractual agreement, is co-ownership.

The types of each ownership shall be determined by specific provisions concerning such ownership.

j. **Article 11**
The legal regime for ownership of immovable property varies in accordance with the requirements of the Cambodian society, such as agricultural land, forests, waterways, lakes, reservoirs or expanses of water, seashores, riverbanks, urban immovable property, and land for construction of industrial development zones.

Specific laws shall supplement the provisions of this law or shall derogate this law in order to meet socio-economic, land management and urban planning exigencies.

Regulations may, in compliance with legislative provisions, stipulate the details of these various property regimes.

Chapter 2 – Public Ownership

9. Article 12

The State is the owner of the properties in the territory of the Kingdom of Cambodia enumerated in Article 58 of the 1993 Constitution and of all properties that are escheat, or that are voluntarily given to the State by their owners, or that have not been the subject of due and proper private appropriation or that are not presently being privately occupied in accordance with the provisions of Chapter 4 of this law.

Article 13 establishes that beside the State, public territorial collectives, public institutions and any legal persons or entities recognized as such by public law may be owners of immovable property, within the conditions determined by this chapter.

Article 14 states that some of this property belonging to the State or to public territorial collectives, subjected to a special legal regime, is public property of public legal entities. Other property, which is managed as private property and may be the object of transactions, is private property of public legal entities.

Article 15 defines property falling within the public property of the State and public legal entities:

- Any property that has a natural origin, such as forests, courses of navigable or floatable water, natural lakes, banks of navigable and floatable rivers and seashores;
- Any property that is specially developed for general use, such as quays of harbors, railways, railway stations and airports;
- Any property that is made available, either in its natural state or after development, for public use, such as roads, tracks, oxcart ways, pathways, gardens and public parks, and reserved land;
- Any property that is allocated to render a public service, such as public schools or educational institutions administrative buildings and all public hospitals;
- Any property that constitutes a natural reserve protected by the law;
- Archeological, cultural and historical patrimonies;
- Immovable properties being royal properties that are not the private properties of the royal family. The reigning King manages royal immovable properties.

Article 18 deals with impermissible land acquisition:

The following are null and void and cannot be made legal in any form whatsoever:

- Any entering into possession of public properties of the State and public legal entities and any transformation of possession of private properties of the state into ownership rights that was not made pursuant to the legal formalities and procedures that had been stipulated prior to that time, irrespective of the date of the creation of possession or transformation;
- Any transformation of a land concession, into a right of ownership, regardless of whether the transformation existed before this law came into effect, except concessions that are in response to social purposes;
- Any land concession which fails to comply with the provisions of Chapter 5;
- Any entering into possession of properties in the private property of the State, through any means, that occurs after this law comes into effect.

And Article 19 states that:

Persons whose title or factual circumstances fall within the scope of article 18 of this law shall not have the right to claim compensation or reimbursement for expenses paid for the maintenance or management of immovable property that was illegally acquired.

Any illegal and intentional or fraudulent acquisition of public properties of the State or of public legal entities shall be penalized pursuant to article 259 of this law.

The penalties shall be doubled where any acquisition of land from the public properties causes damage or delay to works undertaken in the general interest, in particular any acquisition of roadway reserves.

In all cases, if an offender does not cease his illegal occupation within the time limit set by the competent authority, the authority may begin the process to evict the offender from the land.

Explanatory note: The road way reserves referred in the third paragraph are defined in Declaration of the Council of Ministers N^o . 6 on the eradication of anarchy related to encroachment on occupied land, dated 2 September 1999, paragraph 8.

Article 30 provides for land rights which have been established by possession and use:

Any person who, for no less than five years prior to the promulgation of this law , enjoyed peaceful, uncontested possession of immovable property that can lawfully be privately possessed, has the right to request a definitive title of ownership.

In case the granting of a definitive title to ownership is subject to an opposition, the claimant has to prove that he himself fulfills the conditions of peaceful, uncontested possession for no less than five years over the contested immovable property or to prove that he purchased the immovable property from the original possessor or his legal beneficiary or from the person to whom the ownership was transferred, or from their successors.

Article 31 states that:

Any person who had been enjoying possession before this law came into force may be authorized by the competent authority, if such person fulfils all requirements to become an owner of the property, to extend his possession until he attains the legally prescribed period of five years, after which he will obtain a definitive title of ownership. The authorization to extend for the sufficient period of time cannot be denied by the competent authority if the possession is peaceful and uncontested.

A competent authority that improperly refuses an authorization to extend the time is personally liable.

The improper recognition by competent authority of a possession that is not in accordance with the legal requirements is considered null and void. The authority that has given the abusive recognition shall be personally liable before the law.

Article 32 states that:

Immovable property cannot become the ownership of the occupant under this law in a case where the possessor does not fulfill the conditions of the law because of his status of speculative possessor or because of his behavior as a possessor who hides himself or possessor by force.

Such immovable property will revert to the State and no person may any longer enter in its possession for acquisition of ownership under this chapter.

Article 34 is aimed specifically at speculative land acquisition:

After this law comes into force, any new occupant without title to an immovable property belonging to public bodies or private persons shall be considered as an illegal occupant and shall be subject to the penalties provided in Article 259 of this law.

And Article 35 states that:

Only the competent authorities may, on behalf of the State and public legal entities, force occupants without title or insufficient titles to vacate the immovable property.

Individuals or authorities not acting on behalf of the State or public legal entities are not competent to remove forcibly a peaceful occupant holding valid title. Removal can only be made by court's order upon the claim of the person who claims the property.

Courts must verify the form, origin, date and conditions of the title presented. They may not, however, refuse to order the removal of an occupant in favor of a person who presents a valid and complete cadastral title.

The possessor shall occupy the land continuously means that the possessor has to act in a normal expected regular way during the required time to claim acquisition of ownership. The fact that occupation is interrupted for short periods of time or that the land is left uncultivated to recover fertility does not constitute an obstacle to acquisition of ownership.

The possessor shall occupy the land in good faith means that the possessor is not aware of any possible rights of third parties over the property that the possessor has been possessing.

Article 39 offers further specific protection to people possessing land without title:

While waiting for the possession to be transformed into full ownership, possession in compliance with this law constitutes a right in rem over the immovable property. Such property may be the subject of exchange, transfers of rights and transactions.

And Article 40 provides for the process of cadastral survey and registration in such cases:

While waiting for the reconstitution of the cadastral plan and land register, the competent authorities shall continue to issue titles of possession to the immovable property. The title is evidence of possession but is not in itself a title of ownership and is not indisputable.

Article 267 states that "any provisions that are contrary to this law are repealed."

