

# Resettlement Planning Document

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## **GMS: Biodiversity Conservation Corridors**

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## ABBREVIATIONS

ADB	– Asian Development Bank
AHH	– Affected Household(s)
APs	– Affected Persons
BCI	– Biodiversity Conservation Corridor Initiative
BCI 1	– Biodiversity Conservation Corridor Initiative – Phase II
BCI 2	– Biodiversity Conservation Corridor Initiative – Phase II
CDF	– Commune development fund
CPCU	– Central project coordination unit
CRC	– Compensation, Support, and Resettlement Committee
DOE	– Department of Environment (province)
DP	– Displaced person/s
DT	– District teams
DRSC	– District Resettlement Sub-Committee
EXCOM	– Executive Committee at provincial level
FA	– Forestry Administration
FS	– Feasibility Study
GAP	– Gender Action Plan
GMS	– Greater Mekong Subregion
HH	– Household(s)
IPDF	– Indigenous People’s Development Framework
IPDP	– Indigenous People’s Development Plan
IR	– Involuntary resettlement
IRC	– Inter-Ministerial Resettlement Committee
MAFF	– Ministry of Agriculture, Forestry and Fisheries
MEF	– Ministry of Economy and Finance
MO	– Monitoring Organization
MOE	– Ministry of Environment
MOP	– Ministry of Planning
NTFP	– Non timber forest product
O&M	– Operation and maintenance
PAM	– Project administration manual
PDEF	– Provincial Department of Economy and Finance
PF	– Protected forest
PIB	– Public Information Booklet
PPMU	– Provincial project management unit
PRSC	– Provincial Resettlement Sub-Committee
RF	– Resettlement Framework
RGC	– Royal Government of Cambodia
RP	– Resettlement Plan
R-PPTA	– Regional project preparatory technical assistance
SAP(s)	– Severely Affected Person(s)
SPS	– Safeguards Policy Statement
SR	– Safeguards requirements
VAP(s)	– Vulnerable Affected Person(s)
WGE	– Working Group on Environment

## GLOSSARY

Affected person (AP)	- Means any person or persons, household, firm, private or public institution that, on account of changes resulting from the Project, will have its (i) standard of living adversely affected; (ii) right, title or interest in any house, land (including residential, commercial, agricultural, forest, salt mining and/or grazing land), water resources or any other moveable or fixed assets acquired, possessed, restricted or otherwise adversely affected, in full or in part, permanently or temporarily; and/or (iii) business, occupation, place of work or residence or habitat adversely affected, with or without displacement. In the case of a household, the term AP includes all members residing under one roof and operating as a single economic unit, who are adversely affected by a subproject or any of its components.
Detailed Measurement Survey (DMS)	- With the aid of the approved detailed engineering design, this activity involves the finalization and/or validation of the results of the inventory of losses (IOL), severity of impacts, and list of APs earlier done during RP preparation. The final cost of resettlement can be determined following completion of the DMS.
Compensation	- Means payment in cash or in kind to replace losses of lands, housing, income and other assets caused by the Project. All compensation is based on the principle of replacement cost, which is the method of valuing assets to replace the loss at current market rates, plus any transaction costs such as administrative charges, taxes, registration and titling costs.
Cut-off date	Means the date of completing DMS for which land and/or assets affected by the Project are measured. The APs will be informed of the cut off date for each subproject component, and any people who settle in the subproject area after the cut off date will not be entitled to compensation and assistance under the subproject.
Entitlements	- Refers to a range of measures comprising compensation, income restoration support, transfer assistance, income substitution, relocation support, etc. which are due to the APs, depending on the type and severity of their losses, to restore their economic and social base.
Eligibility	- Means any person who has settled in the subproject area before the cut off date, that (i) loss of shelter, (ii) loss of assets or ability to access such assets, permanently or temporary, or (iii) loss of income sources or mean of livelihood, regardless of relocation...will be entitled to be compensation and/or assistances.
Host community	- Means the community already in residence at a proposed resettlement or relocation site.
Income restoration	- This is the re-establishment of sources of income and livelihood of the affected households.
Income restoration program	- A program designed with various activities that aim to support affected persons to recover their income / livelihood to pre-project levels. The program is designed to address the specific needs of the affected persons based on the socio-economic survey and consultations.
Inventory of Losses (IOL)	- This is the process where all fixed assets (i.e., lands used for residence, commerce, agriculture, including ponds; dwelling units; stalls and shops; secondary structures, such as fences, tombs, wells; trees with commercial value; etc.) and sources of income and livelihood inside the Project right-of-way (project area) are identified, measured, their owners identified, their exact location pinpointed, and their replacement costs calculated. Additionally, the severity of impact to the affected assets and the severity of impact to the livelihood and productive capacity of APs will be determined.

Land acquisition	- Refers to the process whereby an individual, household, firm or private institution is compelled by a public agency to alienate all or part of the land it owns or possesses to the ownership and possession of that agency for public purposes in return for compensation at replacement costs.
Rehabilitation	- This refers to additional support provided to APs losing productive assets, incomes, employment or sources of living, to supplement payment of compensation for acquired assets, in order to achieve, at a minimum, full restoration of living standards and quality of life.
Relocation	- This is the physical relocation of an AP from her/his pre-project place of residence and/or business.
Replacement cost	- Means the method of valuing assets at current market value, or its nearest equivalent, plus any transaction costs such as administrative charges, taxes, registration and titling costs.
Replacement Cost Study	- This refers to the process involved in determining replacement costs of affected assets based on empirical data.
Resettlement	- This includes all measures taken to mitigate any and all adverse impacts of a project on AP property and/or livelihoods, including compensation, relocation (where relevant), and rehabilitation as needed.
Resettlement Plan (RP)	- This is a time-bound action plan with budget setting out compensation and resettlement strategies, objectives, entitlement, actions, responsibilities, monitoring and evaluation.
Severely affected households	This refers to affected households who will (i) lose 10% or more of their total productive land and/or assets, (ii) have to relocate; and/or (iii) lose 10% or more of their total income sources due to the subproject.
Vulnerable groups	- These are distinct groups of people who might suffer disproportionately or face the risk of being further marginalized by the effects of resettlement and specifically include: (i) female headed households with dependents, (ii) disabled household heads, (iii) households falling under the generally accepted indicator for poverty, (iv) children and the elderly households who are landless and with no other means of support, and (v) landless households, and (vi) indigenous peoples.

## TABLE OF CONTENTS

ABBREVIATIONS .....	II
GLOSSARY .....	III
LIST OF TABLES.....	VI
I. INTRODUCTION .....	7
A. Project Description .....	7
B. Anticipated Involuntary Resettlement .....	8
C. Rationale for Resettlement Framework .....	9
II. OBJECTIVE OF THE RESETTLEMENT FRAMEWORK.....	10
III. LEGAL FOUNDATION AND ENTITLEMENT POLICIES .....	10
A. Asian Development Bank Policy .....	10
B. RGC Legal Framework and Regulations on Resettlement .....	11
C. Avoiding / Minimizing Involuntary Resettlement .....	17
D. Entitlement Eligibility Requirements .....	17
IV. COMPENSATION, ASSISTANCE AND RESETTLEMENT.....	18
A. Compensation and Assistance.....	18
B. Resettlement.....	20
C. Voluntary Donation .....	21
V. IMPLEMENTATION ISSUES.....	22
A. Information Disclosure, Consultation and Participation.....	22
B. Preparation of Subproject Resettlement Plans: Procedures and Methods .....	25
C. Indigenous Peoples and Gender Issues .....	27
VI. INSTITUTIONAL ARRANGEMENT AND IMPLEMENTATION .....	27
A. Overview of the Arrangements .....	27
B. The Inter-Ministerial Resettlement Committee.....	27
C. Central Project Coordinating Unit (CPCU).....	29

D. Provincial Executive Committee (EX COM).....	29
E. Provincial Project Management Units (PPMU).....	30
F. District Team (DT).....	30
G. Resettlement Sub-Committees .....	30
VII. BUDGET .....	31
VIII. MONITORING AND REPORTING.....	32
A. Internal Monitoring.....	32
B. External Monitoring.....	33
Appendix 1. Entitlement Matrix .....	35
Appendix 2. Sample Cost Table as Approved by the IRC, August 2010.....	43
Appendix 3: Outline of a Resettlement Plan.....	44
Appendix 4: Guidelines for Census, Socioeconomic Survey and Replacement Cost Survey.....	46
Appendix 5: Voluntary Contribution Consent Form .....	48

## LIST OF TABLES

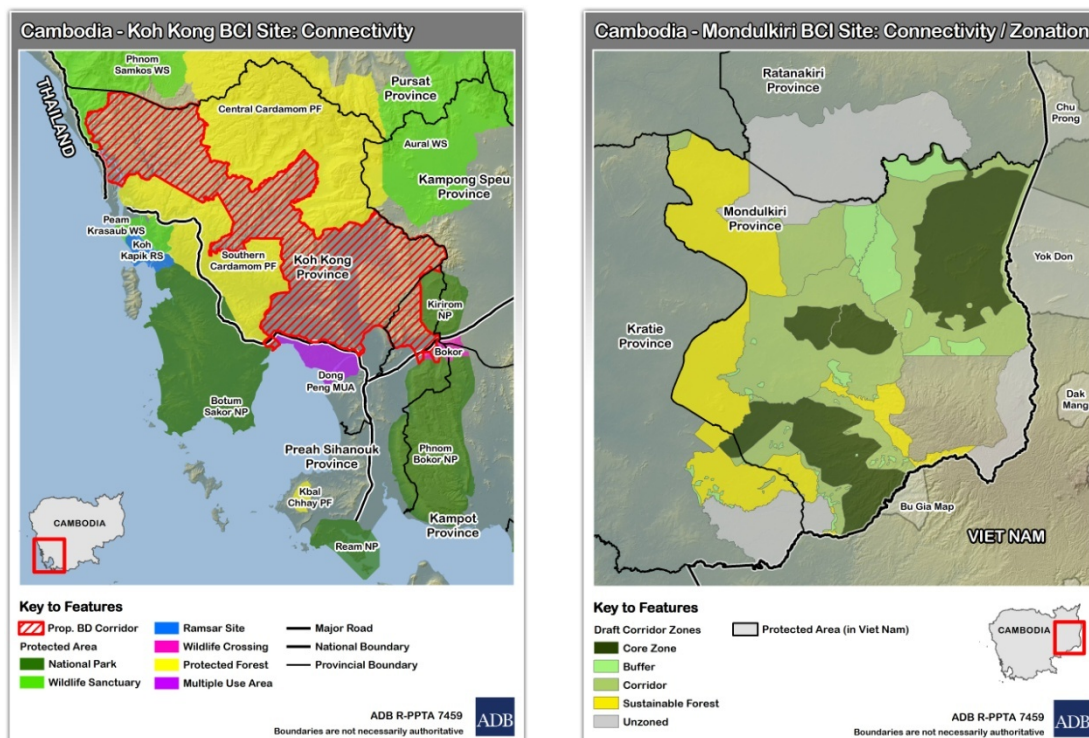
Table 1. BCI 2 Project Sites in Cambodia.....	8
Table 2. Discrepancies Between RGC Laws/Regulations and ADB Policy .....	15
Table 3. Responsibilities of Various Organizations in Land Acquisition and Resettlement .....	28

## I. INTRODUCTION

### A. Project Description

1. The Kingdom of Cambodia is part of the Greater Mekong Sub-region along with Lao PDR, Myanmar, People's Republic of China, Socialist Republic of Viet Nam and Thailand. In 1992, the countries collaborated to form the GMS Economic Cooperation Program with assistance from the Asian Development Bank to facilitate "sustainable economic growth and reduce poverty by strengthening economic linkages among member countries. Further, it aimed to realize and enhance development opportunities, encourage trade and investment, streamline cross border arrangements, and meet common resource and policy needs. The cooperative initiative adopts the following strategies: (i) increasing connectivity through sustainable development of infrastructure and transnational economic corridors; (ii) enhancing competitiveness through efficient cross-border movements of goods and people, and integrated markets and production processes; (iii) building a greater sense of community that mutually recognizes and jointly addresses shared environmental and social concerns.
2. The proposed regional project represents an upscaling of the GMS Biodiversity Conservation Corridors Initiative (BCI) pilot phase endorsed by the GMS Summit of Leaders in 2005 in Kunming and implemented between 2006-2009 in the Cardamom Mountains Biodiversity Landscape and the Eastern Plains under the ADB regional technical assistance (RETA 6289). In Koh Kong province, the proposed biodiversity corridor will maintain and consolidate forest ecosystem connectivity between the Central and Southern Cardamom Protected Forests (PF), linking BotumSakor National Park (NP) the PeamKasop Wildlife Sanctuary (WS) and the Dong Peng multiple use area to the corridor. For Mondulkiri province, the biodiversity corridor proposed links core areas of Mondulkiri PF with Phnom Prich WS and the recently established Seima PF in the South and with Lomphat WS in the North West and the transboundary area to Yok Don NP in Viet Nam to the East. See Figure 1.
3. The RGC requested ADB to follow up BCI Phase I with an investment framework (\$20.9 million grant project) to replicate positive results of BCI in target communes in the two provinces. *Biodiversity Corridors* are geographic areas within or cutting across the GMS Economic Corridors that need to be placed under sustainable management regimes to secure local livelihoods and investments and maintain ecosystem services for future generations.
4. The overall aim of BCI is to secure forest areas for the local communities against further outside pressure/economic concessions by delineating and demarcating community forest areas and protected forest areas and giving tenure instruments to communities and not resettle them or restrict access. Any restrictions on use of community forests will be made by them (local people). Capacity building leading to community empowerment is built in to address such and eventually, any activity will be the choice of participating communities. Connectivity between forest-blocks will be restored as a result of broad community support generated through appropriate consultation and participation modalities. Preference for BCI 2 is a linear design of the biodiversity corridor, but may resort to the stepping stone model anchored on decisions of target communes within the landscape.
5. The project has four components, (i) Institutional and community strengthening for biodiversity conservation management, (ii) Biodiversity corridors restoration, ecosystem services protection, and sustainable management by local resource managers, (iii) Livelihood improvement and small scale infrastructure support in target communes, and (iv) Project management and support services.
6. The provinces, districts, and communes covered by BCI 2 in Cambodia are summarized in Table 1.

**Figure 1. Corridor Design and Coverage in the Provinces of Koh Kong and Mondul Kiri**



**Table 1.BCI 2 Project Sites in Cambodia**

PROVINCE	DISTRICT	COMMUNE	TOTAL POPULATION	NO. OF HOUSEHOLDS
KOH KONG	2	10	22	68,863
		5	10	14,476
	1. BotumSakor	1. AndoungTuek	5,723	6,498
	2. Koh Kong	2. Ta Tai Kraom	1,062	1,164
		3. Trapeang Rung	2,170	230
	3. MondolSeima	4. BakKhleng	12,236	507
		5. PeamKrasaob	1,313	2,608
	4. SreAmbil	6. Chi KhaLeu	3,718	282
	5. Thma Bang	7. Ta TeyLeu	526	761
		8. RuesseiChrum	929	119
MONDULKIRI		9. Chi Phat	2,446	203
		10. ThmaDownPov	363	553
	5	12	38,377	71
	1. Senmonorom	1. Romanear	3,108	7,978
	2. O Raing	2. Dak Dam	1,498	578
	3. KeoSeima	3. Chong Phlah	3,073	349
		4. SraeChhuk	3,342	648
		5. SraeKhtum	8,847	639
		6. SraePreah	1,557	1,977
	4. KohNheak	7. Nang KhiLoek	3,172	326
		8. SokhSant	2,608	564
		9. SraeHuy	1,659	546
	5. PechChreada	10. KrangTeh	1,632	331
		11. Bu Chri	4,177	386
		12. Bu Sra	3,704	843
				791

## B. Anticipated Involuntary Resettlement

7. Two provinces and 22 communes are covered by BCI 2 in Cambodia. Social assessment was conducted in four sample communes from June to July 2010, which resulted in the identification of activities that may possibly trigger involuntary resettlement under the SPS. These are:



- (i) Component 1: Institutional and community strengthening for biodiversity conservation management – Will entail management planning, corridor delineation and demarcation; Special corridor guidelines and rules will be issued and made public.

If affected persons are not safeguarded, the exercise may result in restriction to access for marginalized members of the commune or even loss of assets and livelihood.

- (ii) Component 2: Biodiversity corridors restoration, ecosystem services protection, and sustainable management by local resource managers - Forest restoration which will cover about 110,000 ha in the form of enrichment planting, NTFP planting and agroforestry.

There is also possibility for restriction to access for marginalized members of the commune or even loss of assets and livelihood.

- (iii) Component 3: Livelihood improvement and small scale infrastructure support-Each selected commune has a block allocation for livelihood improvements through CDF, which will provide micro credit facilities to households to borrow for their projects of choice. Aside from livelihood enhancement support, selected communes will receive small scale infrastructure support is expected to focus on (a) commune based potable water schemes, (b) provision of rural toilet and sanitation facilitations, (c) improvement / upgrading of rural access road from commune to main road or market, and (d) any other infrastructure prioritized by beneficiaries.

Possible livelihood support activities proposed by prospective beneficiaries are small holder fishponds, rattan plantation establishment, and even forest restoration and enrichment planting. Again, if not sensitively attended to may result in displacement and restriction to other commune members. As regards small infrastructure, resettlement impacts may occur when land is acquired for small-scale infrastructure improvement/rehabilitation or for storing construction materials or other temporary impacts caused by construction activities.

### **C. Rationale for Resettlement Framework**

8. Technically and ideally, BCI 2 promotes a sequential and sector-like approach at implementation. The necessary land use and capability assessment, and participatory management planning have to be in place prior to subproject implementation. However, it is recognized that planning is an ongoing facet of natural resource management and as such, some subprojects may be ready for implementation within the whole planning phase for the landscape. Specifically under Component 1 (Institutional and community strengthening), the Project aims to secure forest areas for the local communities against further outside pressure/economic concessions by delineating and demarcating community forest areas and protected forest areas. It will provide tenure instruments to communities that are found peripheral to protected areas, which by law have defined uses. Communities will craft restrictions appropriate to their concerns and needs in order to protect their rights to the land and the natural resources therein and in so doing, protect the biodiversity. Capacity building leading to community empowerment is built in to address the need for balancing resource use and protection and eventually, within this context, any activity will be the choice of participating communities.

9. Affected persons cannot be determined as land use zones and priority subproject investments have yet to be identified, under the sequential or simultaneous approach, after the conduct of Components 1 and 2. However, an indicative menu of options for Component 3 (livelihood improvement and small scale infrastructure support in target communes/clusters) was identified by stakeholders. Technical inputs for land use planning will be provided for executing and implementing agencies, local government units, relevant Indigenous Peoples Offices (IPO), and the Cambodia Women's Affairs (CWA). Community ownership to subprojects is still subject to processing for and documentation of broad community support imperative not only for subproject investments, but on a higher plane, to ensure sustainability towards biodiversity conservation and protection. All these are

processed during Component 1 geared at strengthening local institutions. Owing to the beneficiary process-driven approach, subproject resettlement plans cannot be prepared before project appraisal. The Resettlement Framework is therefore prepared in the event that any economic or physical displacement might occur in the course of project implementation.

## **II. OBJECTIVE OF THE RESETTLEMENT FRAMEWORK**

10. Physical resettlement is not expected for this project because the small-scale infrastructure subprojects will be improved along the existing rights of way or following the existing alignments. However, should involuntary resettlement impacts occur, whether minor or temporary, resettlement shall be prepared and implemented properly. This Resettlement Framework (RF) has been prepared to guide the resettlement planning and implementation and provide protocols for due diligence in cases of voluntary acquisition and restrictions. The Framework reflects the Cambodia Government's Policies impinging on resettlement issues and the ADB Safeguard Policy Statement (2009). The RF provides (i) the policy and legal framework of the Government and Asian Development Bank (ADB); (ii) the compensation policy to be applied to all subprojects under the Project; and (iii) procedures to be followed during the subproject preparation, appraisal, and implementation. The Framework will be translated into Khmer and distributed to the central and local agencies, companies and agencies contracted to carry out subproject feasibility study, and other individuals responsible for subproject preparation and implementation, and also submitted to the ADB for review and posting on the ADB website.

## **III. LEGAL FOUNDATION AND ENTITLEMENT POLICIES**

### **A. Asian Development Bank Policy**

11. The objectives of the ADB social safeguards policy are to avoid involuntary resettlement whenever possible; to minimize involuntary resettlement by exploring project and design alternatives; and to enhance, or at least restore, the livelihoods of all displaced and vulnerable persons in real terms relative to pre-project levels; and to improve the standards of living of the displaced poor and other vulnerable groups. In pursuit of the abovementioned objective, BCI 2 and its subprojects will be governed by the following important policy principals in involuntary resettlement:

- (i) Mitigate the need for resettlement and compensation as much as possible;
- (ii) If involuntary resettlement is unavoidable, early screening to identify past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks;
- (iii) Carry out meaningful consultations with affected persons, host communities, and concerned nongovernment organizations. Inform all displaced persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programs. Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns. Support the social and cultural institutions of displaced persons and their host population;
- (iv) Compensate for lost assets and loss of livelihood and income and other resettlement entitlements before physical or economical displacement. Implement the resettlement plan under close supervision throughout project implementation;
- (v) Assist in relocation including provision of relocation sites with appropriate facilities and services;
- (vi) Assist with rehabilitation so as to achieve at least the same level of well-being with the Project as before;
- (vii) Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards;
- (viii) Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status;

- (ix) Prepare a resettlement plan elaborating on displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule;
- (x) Disclose a draft resettlement plan, including documentation of the consultation process in a timely manner, in an accessible place and a form and local language(s) understandable to affected persons and other stakeholders. Disclose the final resettlement plan and its updates to affected persons and other stakeholders;
- (xi) Conceive and execute involuntary resettlement as part of the project. Include the full costs of resettlement in the presentation of project's costs and benefits and
- (xii) Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.

12. The policy further stipulates that the absence of legal title to land cannot be considered an obstacle to compensation and rehabilitation privileges. All persons affected by the Project, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land and semi-landless persons should be included in the compensation, resettlement, and rehabilitation package. The Safeguard Policy Statement stipulates that those APs who are unable to demonstrate a legalizable or recognizable claim to the land being acquired will be eligible for compensation with respect to non-land assets only, and not the land itself. They will however be provided with other benefits and allowances as provided other APs.

## **B. RGC Legal Framework and Regulations on Resettlement**

13. This section of the RF adopts the RGC laws pertinent to involuntary resettlement as cited in the Capacity Building for Resettlement Risk Management: Cambodia Country Report (ADB:2007).

14. **Constitution.** The September 1993 Constitution of the Kingdom of Cambodia includes provisions that are relevant to involuntary resettlement. For instance, the right of the State to acquire private land for public purposes is to be exercised within the bounds of Article 44. Article 73 and Article 74 of the Constitution lend legal support to the special attention being given to vulnerable sectors of society who are displaced by development projects such as children and mothers, the disabled and the families of combatants who sacrificed their lives for the nation (Article 74).

15. **Land Law.** A new Land Law was promulgated in August 2001, replacing the 1992 Land Law. Some provisions of the Land Law that are relevant to the issue of involuntary resettlement are the following:

- (i) No person shall 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 only after the payment of fair and just compensation (Article 5, underscoring provided by the author).
- (ii) All transfers or changes of rights of ownership shall be carried out in accordance with the required general rules for sale, succession, exchange, and gift or by court decision (Article 6).
- (iii) Any regime of ownership of immovable property prior to 1979 shall not be recognized (Article 7).
- (iv) The following property falls 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 15).
- (v) 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 creation of possession or transformation; Any transformation of a land concession ... except for concessions that are in response to social purposes ... Any entering into possession of property in the private property of the State, through any means, that occurs after this law comes into effect (Article 18).
- (vi) Any person whose titles or factual circumstances fall within the scope of Article 18 of this law shall not have the right to claim for any compensation or reimbursement for expenses made 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 vacate his illegal acquisition within the time limit set by the competent authority, the authority shall begin proceedings to evict the offender from the land (Article 19).
- (vii) Any person who, for no less than 5 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 (Article 30).
- (viii) If the eviction ordered by a court is likely to give rise to instability or to have serious social repercussions, the competent authorities may request a temporary suspension of the execution of the order (Article 36).
- (ix) An infringement against public property shall be fined from Khmer riel (KR) 5 million to KR50 million [between \$1,250 and \$12,500] and/or imprisoned from one (1) to five (5) years. The perpetrator must vacate the public property immediately. He has no entitlement to any indemnity for works or improvements that he made on the public property. In the case of a person who was in possession of State public property before this law comes into force and has document proving and attesting clearly that he bought the property from another person, he can request the competent authority to enforce legal measures against the person who illegally sold public property of the State and in order to recover his damages caused by such act. Regardless of the circumstances, the aggrieved party has no right to continue his possession of the State public property (Article 259).

16. The Land Law of 2001 also recognizes the rights of indigenous peoples over their land and their traditional means of productions, thus

- (i) Prior to their legal status being determined under a law on communities, the groups actually existing at present shall continue to manage their community and immovable property according to their traditional customs and shall be subject to the provisions of this law (Article 23).
- (ii) The lands of indigenous communities are those lands where the said communities have established their residences and where they carry out traditional agriculture. The lands of indigenous communities include not only lands actually cultivated but also includes reserved land necessary for the shifting of cultivation which is required by the agricultural methods they currently practice and which are recognized by the administrative authorities...The measurement and demarcation of boundaries of immovable properties of

indigenous communities shall be determined according to the factual situation as asserted by the communities, in agreement with their neighbors, and as prescribed by procedures in Title of this law and relevant sub-decrees (Article 25).

- (iii) No authority outside the community may acquire any rights to immovable properties belonging to an indigenous community (Article 28).

17. **Expropriation Law.** The Expropriation Law was recently passed by the National Assembly on 29 December 2009 and promulgated by the King on 04 February 2010. The purpose of this new law is on expropriation for rehabilitation and construction of physical infrastructure projects serving for public and national interest, and for country development. The law mainly provides (i) mechanism and procedure for expropriation of people properties with fair and just compensation, (ii) expropriation process, (iii) compensation for property expropriation, (iv) grievance redress mechanism, and (v) legal penalty. It contains 8 Chapters with 39 Articles, and has provided a clearer procedure to acquire people properties for purpose of national and public interests:

- (i) **Article 7:** Only the State may carry out an expropriation for use in the public and national interests. Expropriation may only be carried out for the implementation of projects stipulated in Article 5 of this law.
- (ii) **Article 8:** The State shall accept the purchase of part of the real property left over from an expropriation at a reasonable and just price at the request of the owner of and/or the holder of right in the expropriated real property who is unable to live near the expropriated scheme or to build a residence or conduct any business.
- (iii) **Article 22:** An amount of compensation to be paid to the owner of and/or holder of rights in the real property shall be based on the market value of the real property or the alternative value as of the date of the issuance of the *PRAKAS* on the expropriation scheme. The market value or the alternative value shall be determined by an independent commission or agent appointed by the expropriation committee.

18. **SechkdeyPrakas No. 06 (27 September 1999).** Measures to Crack Down on Anarchic Land Grabbing and Encroachment orders an end to encroachment into public and private properties as well as state lands, including public gardens, land reserved for roads and railways. The Order directs municipal and provincial authorities, the Royal Cambodian Armed Forces, the National Police, Military Police, and all relevant ministries and institutions to participate in enforcing the Sechkdey Prakas.

19. **The Ministry of Economy and Finance (MEF) Prakas No. 961 (6 April 2000).** This is an Order issued to enforce SechkdeyPrakas No. 06. The Prakas disallows any payment to be drawn from the national budget for structures and other assets located within the ROW. The MEF Prakas is consonant with the position of the 2001 Land Law that individuals who have illegally occupied the ROW or public properties are not entitled to any compensation or social support, regardless of their being an AP or a member of vulnerable groups.

20. **Sechkdey Choundamnoeng (Notification) No. 43 SCFIN KBCH.** Notification No. 43 (September 2001) or “Cessation of Acquisitive Possession of Immovable Property” enjoins all levels of government to prevent and prohibit new acquisition of public and State land by private entities following the effectivity of the 2001 Land Law. After the Notification, many state private lands were sold to private entities in the form of exchange with new locations.

21. **Sub-Decree No. 19 ANK/BK.** The Sub-Decree on Social Land Concession, issued on 19 March 2003, defines the criteria, procedures, and mechanism for granting and transferring private State land to the poor for residential and/or family farming purposes. This Sub-Decree is specifically directed to vulnerable groups as enunciated in Article 3 and Article 18, thus:

- (i) Social land concessions may be granted for one or more of the following social purposes: Pro- vide land for residential purposes to poor homeless families; Provide land to poor families for family farming; Provide land to resettle families who have been displaced resulting from public infrastructure development; Provide land to the families suffering from natural disaster; Provide land to repatriated families; Provide land to demobilized soldiers

and families of soldiers who were disabled or died in the line of duty (Article 3).

- (ii) After correctly complying with the criteria of the social land concession program for five (5) years, the target land recipient has the right to ownership of the land ... *The target land recipient may not sell, rent or donate social concession land during the first five (5) years of the implementation of the social land concession program...* (Article 18).

22. The Sub-Decree not only provides land; it includes provision of basic infrastructure and services in order to improve the living standards and livelihood of recipient families. Article 9 requires that an assessment (be done) of the availability of infrastructures necessary to implement the (development) plan, including such things as roads, water, electricity, schools, markets, health care center, and tools and equipment to develop the land, other services, information about how and when to prepare these physical infrastructures and to provide those public services.

23. **Sub-Decree No. 62 (20 July 1999).** The sub-decree “Organization and Function of the Ministry of Land Management, Urban Planning and Construction” spells out the functions of the various offices that make up the Ministry of Land Management, Urban Planning and Construction (MLMUPC). It also mandates MLMUPC to recommend policies, plans of action, and measures to help address the problem of squatting. Additionally, MLMUPC is responsible for compiling and updating the market rates of construction materials, equipment, and labor in all the provinces and cities.

24. The Inter-Ministerial Resettlement Committee (IRC), which was established in 1999 (PRAKAS No. 098); decides on entitlements, land values, and other forms of compensation; APs have no right to appeal and are obliged to sell their assets at values set by IRC. The current IRC conducts replacement cost study jointly with representatives from line Ministries, NGO, local consultant, and provincial subcommittee to get acceptable compensation rates for all affected assets.

25. Cambodia<sup>1</sup> currently does not have a comprehensive involuntary resettlement policy and, to a large extent, this deficiency is an obstacle in the way of ensuring the minimum standards in resettlement and rehabilitation demanded by the international development partner agencies. The current government laws and policies on ROW acquisition are concerned, more than anything else, with acquiring land and other assets needed for development projects in the most expeditious and cheapest way. Under the Land Law (2001), those who have occupied a ROW or public properties are not entitled to any compensation or social support, regardless of their being an AP or from a vulnerable group. Prakas No. 961, reiterates this legal position.

26. In general, the policy and legal framework supporting resettlement is very limited although the Cambodia Constitution (1993) and Land Law (2001) protect the rights of individuals to possess and occupy land. The Laws, both the Cambodia Constitution and the Land Law, require fair and just compensation for land taken for public interest. In practice, for government- and private-funded projects, the law, on the one hand, has never been applied and people suffered from development. On the other hand, for ongoing projects funded by the Government, those APs get compensations according to negotiation approach (Willing-buyer-Willing-seller) with full public consultation. However, it has been accepted that the government projects have never prepared RPs. In past projects funded by multilateral and bilateral development partner agencies, fair and just compensation remained doubtful since the compensation cost was covered by the government national budget and IRC, led by the former management was the sole agency that fixed the compensation rates for all affected assets. The current IRC conducts replacement cost study jointly with representatives from line Ministries, NGO, local consultant, and provincial subcommittee to get acceptable compensation rates for all affected assets.<sup>2</sup>

27. **Table 2** presents main areas of possible discrepancy.

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<sup>1</sup> ADB. 2007. Capacity Building for Resettlement Risk Management: Cambodia Country Report.

<sup>2</sup> *Ibid.*

**Table 2. Discrepancies Between RGC Laws/Regulations and ADB Policy**

<i>Parameter</i>	<i>RGC Laws/Regulations</i>	<i>Revised ADB Policy</i>	<i>Project Policy</i>
Severely impacted APs losing productive land	Article 44 of the 1993 Constitution states that the rights to confiscate (land) possession from any person shall be exercised only in the public interest <sup>3</sup> as provided for under law and shall require fair and just compensation in advance.	The involuntary resettlement impacts of an ADB-supported project are considered significant if 200 or more persons will experience major impacts, which are defined as (i) being physically displaced from housing, or (ii) losing 10% or more of their productive assets (income generating).	<i>Losing 10% or more of the household's assets shall be considered as threshold.</i>
APs without LURC	Also Article 5 of the 2001 Land Law states that no person shall be "deprived of their ownership unless this action is for the public interest consistent with formalities and procedures provided by law...and after just and fair compensation". However it does not provide clear guidance on compensation for types of losses.	Those APs without legal title to land will be included in consultations. Ensure that APs without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets including dwellings, structures and other improvements to land such as crops, irrigation, at full replacement cost. Safeguards cover involuntary restrictions on land use or on access to legally designated parks and protected areas. Covers temporary and partial losses.	<i>Project affected people, without legal or recognizable legal claims to land acquired, will be equally entitled to participation in consultations and benefit schemes of BCI 2 where possible, and be compensated for their lost non-land assets such as dwellings and structures occupied before cut-off date. They will be entitled to resettlement assistance and other compensation and social support to assist them to improve or at least restore their pre-project living standards and income levels.</i>
Compensation for lost land		Land based livelihoods restoration based upon land based strategies where possible, or cash compensation at replacement value provided loss of land does not undermine livelihoods for those with legal rights to land. Provide adequate and appropriate replacement land. If land not available non-land based options built around opportunities for employment, self-employment should be provided in addition to cash compensation for land and non-land assets lost.	Where appropriate land based compensation is not viable, replacement cost surveys will be carried out by the project staff to ensure that project rates for all categories of loss will be equivalent to replacement cost at current market value, to be updated at the time of compensation and combined with other assistance and livelihood restoration measures to ensure full restoration and improvements. Provided APs have legal or recognizable claim compensation is for full amount of land acquired.
Differences between compensation rates and market rates	By virtue of Government Order No. 13 and Prakas 098, the Inter-ministerial Resettlement Committee decides on entitlements, land values, and other forms of compensation; APs have no right to appeal and are obliged to sell their assets at values set by IRC. IRC plays a dominant role in all resettlement activities both planning and implementation, as well as monitoring and evaluation. Decisions are made on a project basis. Development projects funded by the Government and the private sector are not required by law to have RPs	Provide physically and economically APs with needed assistance including i) if there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of APs economically and socially into host communities, ii) transitional support and development assistance such as land development, credit facilities, training or employment opportunities, and, iii) civil infrastructure as required.	<i>Physically displaced (relocated) APs are to receive relocation assistance, secured tenure to relocated land, better housing at resettlement sites with comparable access to production and employment opportunities, and civic infrastructure and community services as required, transitional support and development assistance such as land development, credit facilities, training or employment opportunities.</i>
Compensation for structures		Rate of compensation for acquired housing, land and other assets will be calculated at full replacement costs, based upon: i) fair market value, ii) transaction costs, iii) interest accrued, iv) transitional and restoration costs, v) other applicable payments.	<i>Full compensation at replacement cost will be paid for all affected structures without any deductions for salvageable materials or depreciation, full replacement costs, based upon: i) fair market value, ii) transaction costs, iii) interest accrued, iv) transitional and restoration costs, v) other applicable payments</i>

<sup>3</sup> Public interest is not operationally defined in the Constitution and in derivative laws and is, therefore, open to interpretation.

<i>Parameter</i>	<i>RGC Laws/Regulations</i>	<i>Revised ADB Policy</i>	<i>Project Policy</i>
Compensation for registered businesses		Affected business owners are entitled to i) costs of re-establishing commercial activities elsewhere, ii) the net income lost during the transition period, iii) costs of transferring and reinstalling plant, machinery and equipment.	<i>Affected business owners are entitled to i) costs of re-establishing commercial activities elsewhere, ii) the net income lost during the transition period, iii) costs of transferring and reinstalling plant, machinery and equipment.</i>
Compensation for non-registered businesses		No distinction between registered or non-registered businesses in regards to compensation entitlement for lost income and other assistance.	<i>The DRC must certify that the AP has a business in current operation and approve the level of lost income.</i>
Monitoring		Monitoring indicators specified for internal and external monitoring and reporting	<i>The EA must appoint an independent external monitor and undertake internal monitoring according to the critical indicators.</i>
Disclosure and Consultation		ADB policy requires continuous public disclosure throughout all stages of the project, from identification and feasibility and project design and throughout implementation.	<i>Public consultation will begin before project approval and continue on an ongoing process.</i>



### **C. Avoiding / Minimizing Involuntary Resettlement**

28. Avoiding or minimizing involuntary resettlement impacts is built into the subproject/sector activity selection criteria. Subprojects/sector activities will be screened based on the following:

- (i) Identified as one of the top three priorities by beneficiaries in the commune and documented through participatory, multistakeholder consultations conducted by the project;
- (ii) Affordable within the block allocation set aside for the commune;
- (iii) Fulfills all social safeguard criteria as laid out in subproject eligibility section (see PAM);
- (iv) Compliant with all environmental safeguard issues as described in safeguards section in the PAM;
- (v) In conformity with land use plans in the commune and the biodiversity corridor;
- (vi) Households in target communes benefit in the form of income generation or cost savings in terms of money, time, and effort and benefits households in the target communes (men, women, or both, and/or families/households);
- (vii) Technically feasible and satisfies preference for mountainous area community- based small scale rural infrastructure interventions; and
- (viii) Arrangements satisfactory to the project have been made for undertaking operations and maintenance (O&M) if applicable.

29. The subprojects will avoid resettlement, land acquisition, and physical displacement or denial of access to resources currently under use by the beneficiaries without prior and informed consent. Small-scale infrastructure investments will only be undertaken on the basis of demand and agreement of the beneficiaries to in-kind contribution (e.g. labor, land, right of way, and willingness to undertake O&M etc.).

30. Resettlement impacts will be minimized by observing the following: (i) improvement of small-scale infrastructure designs will be along existing rights of way or following existing alignments; (ii) ensure no subproject with the ADB's Category A resettlement criteria is financed under the Project; (iii) local stakeholders will be actively engaged during consultation to ensure the subproject designs are with minimized or no land acquisition.

31. Further, intensive capacity building across project cycle, and ensuring broad community support in subproject prioritization, planning, selection, and implementation will be observed. Zoning will primarily protect the existing forest resources and Indigenous Peoples' rights to access NTFPs. Fast paced economic developments, if conducted in an unplanned manner, will heavily impact on the last remaining natural forests, ecosystem services, and forest based livelihoods. The Project will facilitate the provision of tenural security to Indigenous Peoples. BCI aims at providing incentives, funding, and technical assistance enabling local people to grow trees of their choice in their homestead plantations and community forests for subsistence needs as well as for fuelwood consumption and construction. Micro credit schemes for village/commune level enterprises are to be encouraged for local (wood and nonwood) primary processing to emerge or existing ones to become vibrant. The establishment of management regimes in the corridors shall create jobs for local people.

### **D. Entitlement Eligibility Requirements**

32. Eligibility will be determined with regards to the cut-off date, which is taken to be the date of completing the DMS for which land and/or assets affected by the subproject are measured. The APs will be informed of the cut-off date for each subproject component, and any people who settle in the subproject area after the cut-off date will not be entitled to compensation and assistance under the subproject.

33. In addition, the extent of eligibility for compensation in regards to land is determined by legal rights to the land concerned. If the APs have land legal rights (LURCs), full compensation and assistance for lands and assets upon land will be made. If the APs have no land legal rights or the affected land cannot be legalized, compensation for assets upon lands will be provided but not for the

land. However, assistance shall be provided for resettlement assistance and social support to improve or at least restore their pre-project living standards and income level. APs without legal right status will be entitled to benefit schemes of the BCI 2 and directly engaged in the Component 3 of the Projects - Livelihood improvement and small scale infrastructure support in target villages and villages/ clusters. An Entitlement Matrix is provided (**Appendix 1**) that summarizes the main types of losses and the corresponding nature and scope of entitlements. **Appendix 2** is a sample of the official replacement costs for land and properties acquisition estimated by Inter-Ministerial Resettlement Committee (IRC) of the Ministry of Economy and Finance (MEF) as of Aug 2010 for a road reconstruction project of JICA. This Appendix provides an idea for replacement cost estimates. The BCI final replacement cost tables are still subject to be finalized by IRC review, negotiation and approval.

#### **IV. COMPENSATION, ASSISTANCE AND RESETTLEMENT**

##### **A. Compensation and Assistance**

34. Compensation and assistance will be provided to ensure that the economic and social futures of APs are at least as favorable as they were before the Project. The compensation policy, which encompasses compensation for all affected assets, along with rehabilitation measures, will ensure that all APs are able to, at minimum, restore their incomes, standards of living, and productive capacities to pre-project levels if not better. Specific measures to ensure restoration of incomes and living standards of APs include compensation for lost assets based on (i) as a priority, land-for-land of equivalent productive capacity and at a location suitable and acceptable to the APs, or (ii) in case of the lack of available suitable same-use land or, at the request of an APs who have been informed regarding the options, cash for land or a combination of the two. Compensation will be based on results of the replacement cost survey.

35. **Compensation and assistance for lands:** Some lands will be acquired on a temporary basis (i.e., for access tracks and storage areas, etc). This land will be returned to its original owners and compensation paid for any temporary loss of income from standing crops or other, and the land will be returned to its owners in its original condition. If the temporary acquisition continues for longer than 6 months, the AP may request the contractor to pay for land rental.

36. In regards to productive land permanently acquired, land for land compensation is preferred if land budget of the area is available. Otherwise, APs will be compensated for the loss of land by the full market value.

37. APs with losses of more than 10% of their total agricultural landholdings, will be entitled to cash compensation for crops and trees at market prices AND first priority for land-for-land of equivalent productive capacity at a location acceptable to the APs or, if requested, cash compensation for the lost land at 100% of replacement cost (which applies only to the same size of land loss) AND Cash assistance for acquiring and developing new farmland; AND assistance in cash for job-creation (subject to be approved by IRC), AND entitled to the benefit scheme that proposed under the BCI-II (livelihood improvement).

38. For users non-legal users or those with lease or permissive rights, no compensation for land loss, but rental in terms of cash assistance for the period of disruption and for entire loss of land, equivalent to rent price evidence in lease agreement or/and permission license; and full replacement cost for non-land assets and investment on land to land user. Cash assistance also extended for acquiring and developing new farmland.

39. APs with losses less than or equal to 10% of their total agricultural landholdings will be entitled to cash compensation for crops and trees at market prices, AND cash compensation for acquired land at 100% of replacement cost, AND assistance in cash for job-creation (subject to IRC approval), AND entitled to the benefit scheme that proposed under the BCI 2 (livelihood improvement).

40. APs with losses under or equal to 10% of the total productive land where land is still economically viable for use or meets the expected personal yield will require confirmation by the Provincial Resettlement Sub-committee (PRSC) during the detailed measurement survey or DMS.

Owners with legal or legalizable/ recognized rights for portions that will be acquired permanently by the Project and those covered by customary rights, such as members of IP groups can avail of: Cash compensation for portion land loss which is equivalent to current market price and free from transaction costs (e.g., taxes, certification, and administration costs). For portions to be used temporarily during the Project cash rental may be negotiated by DRSC with the DP.

41. For residential land, if following land acquisition there is insufficient land to rebuild upon, the AP will be relocated. If there is sufficient land remaining, the AP is assisted with replacement cost compensation for lost structures and provided other assistance and allowances to cover the cost of rebuilding or repairing the original structure. If there are no structures on the residential land, APs will be entitled to compensation in cash at 100% of the replacement cost of the affected land. APs who reconstruct their house on their remaining land will be compensated with land-for-land or cash-for-land as well as 100% of the replacement cost of the structure. If insufficient land remains they will have to be resettled.

42. APs covered by land use restriction or loss of livelihood sources because of conservation zoning and mapping regardless of legal status may avail of income restoration and livelihood development assistances. The level of assistance will be finalized during consultations with the APs and during the RP preparation as approved by the IRC. Further, APs shall be entitled to the benefit schemes of BCI 2 and automatically included in Component 3 of the Project.

43. The loss of garden/pond land that cannot be certified/recognized as residential land but having (i) Owners with LURC; (ii) Owners in the process of acquiring LURC; and (iii) Owners Eligible to acquire LURC will receive compensation for affected land based on replacement cost of garden/pond land, APs will be entitled to cash assistance for acquiring and developing new land. Bonus allowance is provided if land is handed over in time

44. **Compensation for loss of standing trees and crops:** For annual standing crops, compensation will be paid to households who cultivate the land according to the full market value of the affected crops, regardless of the legal status of the land. With regard to fruit trees and timber trees, the compensation at replacement cost is based on age, productive capacity, and/or market value and according to the formula below:

- (i) 1 ~ 3 years old: compensated at 1/3 its full price (as it can be re-planted)
- (ii) 3 ~ 5 years old: compensated at 2/3 its full price
- (iii) More than 5 years old: full amount of compensation

45. **Compensation for loss of Structures:** APs losing structures will be entitled to the following: (a) Compensation in cash for all affected structures will be provided at 100% of the full replacement cost for materials and labor, regardless of whether or not they have title to the affected land or permit to build the affected structure. The amount will be sufficient to rebuild a structure the same as the former one at current market prices. The calculation of replacement cost will be based upon i) fair market value, ii) transaction costs, iii) interest accrued, iv) transition and restoration costs, and v) any other applicable payments; (b) Compensation and assistance will be provided in the form of cash. No deductions will be made for depreciation or salvageable materials; and (c) The calculation of rates will be based on the actual affected area and not the useable area. Current building materials prices will be used when calculating the amount of compensation if necessary. Compensation in cash will be paid to each affected family.

46. Relocation of registered and unregistered business: APs who must relocate their shops or factories will be provided assistance to rebuild and/or relocate their premises regardless of whether or not the business is legally registered. The AP is entitled to (i) Materials transport allowance as approved by IRC and (ii) Transition subsistence (community/income restoration) allowance provided as approved by IRC. Loss of income from business is recognized and for marginal impact (i.e., disruption of business due to reorganization of the shop on the residual land; disruption of employment of less than 3 months), transition subsistence (community/income restoration) allowance provided as approved by IRC.

47. Under their contract specifications, the contractors will be required to take extreme care to avoid damaging private and communal and State property during their construction activities. Where damages do occur, the contractor will be required to pay compensation immediately to affected families, groups, communities, or government agencies at the same compensation rates that shall be applied to all other assets affected by the Project as agreed between DRSC and owner.

## **B. Resettlement**

48. Under unavoidable situations, if there is insufficient residential land remaining after acquisition, the AP must relocate resettlement. For implementation of resettlement, the following basic principles have been adopted for the Project:

- (i) Physical displacement to resettlement sites will not take place until such time as the sites are ready and equipped with fully functioning infrastructure.
- (ii) In the case of population relocation, efforts shall be made for the existing social and cultural institutions of the people being resettled and host community to be maintained to the extent possible.
- (iii) Preparation of RPs and resettlement sites will be carried out with the full participation of affected people. APs' comments and suggestions will be duly taken into account during the design and implementation phases of the resettlement plans and in preparing the resettlement sites.
- (iv) Adequate budgetary support will be fully committed and be made available to cover the costs of land acquisition, resettlement site preparation, and AP relocation and rehabilitation within the agreed implementation period.
- (v) ADB shall not approve of any civil works contract for any subproject to be financed from the loan proceeds unless the Government has completed satisfactorily and in accordance with the approved RP for that subproject compensation payment and relocation to new sites, and ensured rehabilitation assistance is in place prior to obtaining possession and rights to the land.

49. The APs may choose between the following options of resettlement:

50. Resettlement to the resettlement site: The APs will be entitled to (i) land-for-land compensation with full title to a plot of land of equal area and quality (not less than the standard plot size) at a new location as close as possible to the old location; AND(ii) compensation for affected structures at full replacement cost, AND(iii) if not already available at the resettlement site, sufficient cash to develop access and water supply, electricity connection if available, and land filling if needed; AND(iv) entitled to benefits scheme of the BCI 2; OR,

51. Self relocation: APs are entitled to assistance: (i) Cash compensation at full replacement cost for their legal affected land and structures if they prefer to make their own arrangements for relocation, AND(ii) Subsistence and transportation allowances, (iii) Entitled to benefits scheme of the BCI 2, and (iv) Bonus Allowance if land is handed over in time.

52. Relocation assistance: for APs with permanent and semi-permanent houses whose dwellings are dismantled and must relocate the structure and materials, a materials relocation allowance based upon category of house as a result of the Detail Measurement Survey. Transportation allowances within the province of origin, outside the province will be provided in accordance with replacement cost survey report of the IRC.

53. Rental assistance: APs with no other accommodation who must rent whilst waiting for a new house at a resettlement site assistance will receive rental assistance in accordance with replacement cost survey report of the IRC, until new house is handed over, or until notice of new land is given plus up to 6 months whilst new house is built.

54. Assistance for livelihood stabilization: APs will receive (i) Life stabilization allowance equivalent to 20 kg of rice per month and per member of household. The allowance period will depend on the estimated transition period; (ii) **living allowances for 6 months particularly to vulnerable affected**

**households:** (a) Female-headed household, (b) Disabled and elderly-headed household; (c) Poor households with income below the national poverty line.

55. Assistance for employment and new vocation: APs of working age in the household who wish to receive training in a new vocation, a training credit will be provided in accordance with replacement cost survey report of the IRC (note that this is not a cash payment).

56. Special assistance to policy and vulnerable households– special assistance is available to vulnerable households who's household heads are disabled, woman and elderly. APs will receive additional allowance in accordance with replacement cost survey report of the IRC.

57. Relocating and Handing over land on time– In cases of full residential land acquisition, households that hand over their land and move in accordance with the relocation schedule will receive relocation allowance in accordance with replacement cost survey report of IRC. If residential land only partially acquired but full acquisition of productive land the amount will be reduced to 50% of the relocation allowance.

### **C. Voluntary Donation**

58. The ADB-SPS on Involuntary Resettlement does not apply to negotiated settlements even if among the stakeholders, unless expropriation would result upon the failure of negotiations. The EA will ensure that the proposed process addresses any asymmetries of information and bargaining power of the parties. The documents pertaining to the settlements, such as maps, land registries, sales records, laws and policies pertaining to the negotiations and development plans are to be disclosed. The EA will engage an independent external party to document the negotiation and settlement process. The independent external party is not associated with the project – past and present, in any capacity. Consultation processes, applicable policies, and laws; mechanisms for calculating the replacement costs of land and other assets affected; and record-keeping requirements will be in line with this BCI 2 RF.

59. Since it is expected that small-scale infrastructure constructions will positively impact on the incomes and livelihoods of local people, following their priorities and consensual agreement and that the scale of impact is very minor, voluntary land acquisition for the BCI 2 subproject will be applied. A Voluntary Land Donation Form (See **Appendix 5** for sample) must be attached to the Village RP and adhere to the following principles:

- (i) Subproject site is selected in full consultation with landowners and any nontitled affected people;
- (ii) Voluntary donations do not severely affect the living standards of affected people and the amount of agricultural or other productive land to be acquired from each AP does not exceed 5% of the total productive landholdings of the household;
- (iii) Land donations are linked directly to benefits for the affected people;
- (iv) Any voluntary 'donation' will be confirmed through written record and verified by an independent third party such as Independent Monitoring Organization;
- (v) There is an adequate grievance process (as described in para. 72);
- (vi) No AP will be displaced from housing and severely affected;
- (vii) Vulnerable AP(s) will directly benefit from Components 2 and 3 of the Project

60. In cases of restriction to land use and/or livelihood sources, impacts of which are determined to be minor and the affected households do not want to receive compensation for the impacts; the procedures will be applied following the same for those with voluntary donation of affected land and or assets upon lands. If the impacts are significant as can be finalized during the consultations with the affected households, the compensation and options for assistance must be discussed with the affected households and presented in the RP. The affected households shall be automatically included in the benefit schemes of the BCI 2 Project.

61. In the event APs, who had long been utilizing resources that are eventually zoned off, will restricted to access to land or livelihood resources, resettlement and compensation entitlements will

be provided following consultations with them during RP preparations. These APs will be automatically engaged in the Project components and entitled to BCI 2 benefit schemes.

## **V. IMPLEMENTATION ISSUES**

### **A. Information Disclosure, Consultation and Participation**

62. **Information Disclosure.** The local people and affected households and other stakeholders will continue to be consulted during RP updating and implementation, following a two-way process – information dissemination and gathering of feedback and suggestions.

- (i) Affected households will be notified at least six months prior to the date that the land will be acquired by the subproject.
- (ii) Public Consultations: A first public consultation with local people and the affected households and other stakeholders will be held prior to the start of the inventory of losses (IOL), as a way of introducing the subproject and the resettlement policy to the local population. Focus groups are to be held with representatives of households affected by land acquisition and with all households affected by loss of a dwelling. During the focus groups participants can express their concerns that should be addressed in the resettlement process and on their preferences for compensation and income restoration.
- (iii) A second Public Consultation will take place to share the results of the IOL, the entitlements and the resettlement plan. This public consultation will include discussing the results of the impacts survey with the affected households and getting feedbacks and suggestions on their compensation and entitlements, including income restoration and relocation options.
- (iv) Further public consultations will continue during implementation. These consultations should take place (i) following completion of the DMS and review and updating of unit costs for affected assets, where the resettlement committees consults with the affected households individually and/or in group in connection with the updating of compensation and entitlements and, as warranted, income restoration programs and relocation plans; and (ii) following approval of the updated RP, to present to the affected households in the village (i.e., also referred to as “final disclosure meeting”) the validated/updated list of affected people, compensation and entitlements due to them, and schedule of delivery of compensation and entitlements.
- (v) Disclosure of RP: The draft RP will be uploaded on the ADB website. Following approval of the draft RP by EA and ADB, the final RP will again be disclosed to the affected households and uploaded on the ADB website.
- (vi) The updated RP (draft and approved) to be prepared following detailed design will likewise be disclosed to the affected households and uploaded on the ADB website.

63. Information disclosure is an ongoing process beginning early in the project cycle and continuing throughout project preparation and implementation. The process must provide timely information to communities in order that they may meaningfully contribute to project design, decisions and also mitigation. Provision of timely and accurate information will stem misinformation and inaccurate rumors from circulating in communities. During consultations particular attention is given to vulnerable subgroups in the community to ensure their understanding and collective input. In accordance with both ADB and RGC policy the Provincial Resettlement Sub-Committees (PRSCs) and District Resettlement Sub-Committees (DRSCs) must ensure that public notice is given and disseminate details of the approved draft resettlement plan, or framework, before project appraisal by the ADB. This draft will also be disclosed on the ADB website. Following the census of affected persons, the final resettlement plan, as endorsed by the RGC, is further disseminated to the affected communities and posted on the ADB website. Any updates or revisions to the final resettlement plan must be further disseminated to affected communities and again, posted on the ADB website.

64. The Provincial Project Management Unit (PPMU) will advise the PRSCs and DRSCs to conduct a series of public meetings to provide information regarding project activities and the proposed resettlement and compensation arrangements.

65. These public meetings will be needed to: (i) disseminate information on inventory and pricing results, (ii) inform the APs on amounts of compensation and supports of each affected household, (iii) to listen to their feed back and suggestions, and (iv) for revising or adjusting the inaccurate data, if any. It is important that APs are informed well in advance of the date, time and location of each meeting, and that reminders are also provided. It is essential that these meetings enjoy maximum participation as this will reduce misunderstandings and potential for conflict. The DRSCs must ensure that they post this information on the announcement board at village centers for at least 20 days

66. The posting must be recorded in official minutes and confirmed by the Commune Councils, following expiration of this period the agency in charge of compensation will summarize all opinions and comments received, including numbers of APs and stakeholders who agree and disagree, with the compensation and land acquisition and assistance offered in the resettlement plan.

67. The contents of the public meetings will cover the following:

- Subproject components. This includes the places where stakeholders can obtain more detailed information about the project.
- Subproject impacts. Anticipated impacts on the people living and working, making livings in the affected areas of the project including explanations about the need for land acquisition for the subproject components.
- APs rights and entitlements. The rights and entitlements for different categories of APs, including the entitlements for those losing businesses, jobs and income. Options for land-for-land and cash. Options regarding reorganizing and individual resettlement, and provisions and entitlements to be provided for each as well as opportunities for BCI-II project-related employment will be applied for all APs
- Grievance mechanism and the appeal process. All APs are to be informed that project policies and procedures are intended to ensure their pre-project living standards are at least restored if not improved. All APs must also be informed that if there is any confusion or misunderstanding about any aspect of the project, the village or district resettlement committee can help resolve problems. If they have complaints about any aspect of the land acquisition, compensation, resettlement, and rehabilitation process, including the compensation rates being offered for their losses, they have the right to make complaints and to have their complaints heard. APs will also receive an explanation about how to access grievance redress procedures, according to Project's mechanisms and RGC's Grievance laws and regulations.
- Resettlement activities. All APs are to be given an explanation regarding compensation calculations and compensation payments, monitoring procedures (which will include interviews with a sample of APs), reorganization, relocation to an individual location/self-relocation, and preliminary information about physical works procedures.
- Organizational responsibilities. All APs are to be informed about the organizations and levels of Government involved in resettlement and the responsibilities of each, as well as the names and positions of the Government officials with phone numbers, office locations, and office hours if available;
- Implementation schedule. All APs should receive the proposed schedule for the main resettlement activities and informed that physical works would start only after the completion of all resettlement activities and clearance from the project area. It should be clarified that APs would be expected to move only after full payment of compensation for their lost assets. Implementation schedules and charts will be provided to resettlement committees at all levels.

68. Following all public meetings with APs and stakeholders the DRSC must complete the following activities:

- Make a list of all APs who joined the meeting;
- Make a complete record of all questions, comments, opinions, problems and decisions that arose during the information and consultation meetings.
- Deliver leaflets and project announcements to the APs.

69. **Documents Disclosure.** According to the ADB SPS, the following documents are submitted to the ADB for Disclosure on the ADB website:

- (i) Draft RP or RF endorsed by the Client before project appraisal
- (ii) Final RP endorsed by Client after the DMS (Census of APs)
- (iii) Updated RP following any changes from the DMS or other changes introduced (if any)
- (iv) Resettlement monitoring reports

70. In the RP preparation following the DMS and formulation of the Inventory of Losses (IOL) the PPC will direct the DRC to provide information for local people on:

- (i) Description of the subproject;
- (ii) Potential resettlement impacts by the subproject;
- (iii) Project Resettlement Policy Framework (concentrate on the entitlements);
- (iv) Implementation schedule; and,
- (v) Grievance redress mechanism.

71. **Community Participation and Consultation:** Interviews with APs will be conducted in order to check the adequacy of compensation prices issued by the provinces. Further public consultations will be carried out during the implementation stage with a focus on specific activities including assessment of compensation, acquisition of land, and design of rehabilitation assistance planning, and design of resettlement sites. These measures are undertaken to ensure that APs are satisfied with the compensation arrangements and will not object to the disruption and that they will not suffer enduring negative impacts due to the project and be able to fully restore and further improve their livelihoods.

72. **Grievance Redress Procedure:** APs are entitled to lodge complaints regarding any aspect of the preparation and implementation of the RP. A well-defined grievance redress and resolution mechanism will be established to address AP grievances and complaints in a timely and satisfactory manner. The objective is to resolve complaints as quickly as possible and at the local level through a process of conciliation; and, if that is not possible, to provide clear and transparent procedures for appeal. All APs will be made fully aware of their rights, and the detailed grievance redress procedures will be publicized through an effective public information campaign. The grievance redress process includes four stages. There are three stages before complaints may be elevated to a court of law as a last resort.

- (i) First stage: APs will present their complaints and grievances verbally or in writing to the village chief, commune chief or the District Team. The receiving agent will be obliged to provide immediate written confirmation of receiving the complaint. If after 15 days the aggrieved AP does not hear from the village and commune chiefs or the working groups, or if he/she is not satisfied with the decision taken in the first stage, the complaint may be brought to the Provincial Resettlement Sub-Committee (PRSC) Office.
- (ii) Second stage: The PRSC Office has 15 days within which to resolve the complaint to the satisfaction of all concerned. If the complaint cannot be solved at this stage, the PRSC Office will bring the case to the Grievance Redress Committee of the IRC.
- (iii) Third stage: The IRC has 30 days within which to solve the complaint. The IRC's Grievance Redress 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 (Independent Monitoring Organization or IMO). Within 30 days of the submission of the grievance, the Committee must make a written decision and submit copies to the CPCU,



PPMU, DT, IMO, PRSC, DRSC, and the AP.

- (iv) Final stage: If the aggrieved AP does not hear from the Grievance Redress Committee of IRC or is not satisfied, he/she will bring the case to Provincial Court. This is the final stage for adjudicating complaints. The Court will make a written decision and submit copies to the MOE, MAFF, PDOE, PDOAFF, IMO, PRSC, DRSC and the AP. If any party is still unsatisfied with the Provincial Court judgment, he/she can bring the case to a higher-level court.

73. The Executing Agency (EA) will shoulder all administrative costs<sup>4</sup> incurred in the resolution of grievances and complaints within the project-level grievance redress mechanism. If the AP seeks grievance redress through country-level judicial and administrative mechanisms, the requirements and procedures applicable to the relevant jurisdiction shall apply.

74. It is recognized that, in many cases, APs do not have the writing skills or being able to express their grievances verbally, however, APs are encouraged to seek assistance from the IMO, the nominated 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 of assets, to ensure that where disputes do occur all the details have been recorded accurately enabling all parties to be treated fairly.

#### **B. Preparation of Subproject Resettlement Plans: Procedures and Methods**

75. Procedural requirements are outlined in the ADB Safeguard Policy Statement (2009), and further detail is found in the ADB Operations Manual for Bank Policies (4/3/2010). Scoping and preparation for resettlement will be part of the updated social assessment.

76. A detailed socio-economic survey and census will be conducted with each affected household. This must cover 100% of the affected households and will be conducted by the CRC or the consultants. This will include a detailed measurement study in order to formulate the inventory of losses and calculate compensation for lost land, dwellings, structures and other assets. This will identify severely affected households and those partially affected. Other social and development assistance measures needed will be discussed with the APs and confirmed, then the final resettlement budget calculated. It is important that the survey be gender responsive and must include the men and women of the household.

77. Participatory meetings will be convened with the community to explain the process that will be followed in obtaining information regarding the census and DMS and as to why these are necessary. Separate meetings should be held with members of vulnerable groups to ensure that these people understand the process. Holding separate meetings will allow them to freely ask questions without feeling intimidated or less knowledgeable than others. These meetings will allow the community to provide feedback in regards to the process and facilitate coordination of events.

78. In regards to the valuation of affected assets, each province has established a book value system for valuing land on a square meter basis. These values are updated on an annual basis by the PPC. These valuations will be obtained during the socio-economic data collection and concurrently, details of land transactions occurring over the past 12 months will be obtained by the survey teams from each affected commune. This will provide a better indication of the current market value of any land being acquired. In accordance with ADB policy, current market values will be applied. In regards to structures and dwellings, replacement cost surveys will be undertaken by the DRSCs in each district in order to obtain unit prices for building materials and other components and assets lost. Any AP not satisfied with the level of compensation applied will be able to appeal according to the Grievance Process established for the project. A guideline on socio-economic survey as well replacement cost survey is presented in the **Appendix 4**.

79. The following general steps will be followed in the formulation of each RP:

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<sup>4</sup> Generally, for the grievance process from stage 1 to stage 3 as stated in the RF there is no cost incurred by the competent authority, and the grievance redress mechanism is accessible to APs at no cost and without retribution.

- (i) **Step 1:** In further refining of the subproject physical design, consult with potential APs and engineers and environment specialist who are working for BCI 2 to avoid resettlement effects as much as possible as already mentioned in Section III (C) to keep the impact minimum.
- (ii) **Step 2:** Carry out a census and socio-economic survey of all the potential APs as part of the social assessment. This should include the socioeconomic data of the APs and the detailed measurement survey that inventories each household's losses. The socio-economic survey will be carried out by the resettlement committee or consultant and will be conducted on a participatory basis with all members of each household. The census survey establishes the cut-off date for the eligibility of entitlement. It will be carried out with the attendance of relevant local authorities. The following data should be collected:

Data about APs:

- Total number of APs
- Demographic, education, income, and occupational profiles
- Inventory of all property and assets affected
- Socioeconomic production systems and use of natural resources
- Inventory of common property resources if any
- Economic activities of all affected people, including vulnerable groups
- Social networks and social organization
- Cultural systems and sites

Data on land and the area:

- Map of the area and villages affected by land acquisition
- Total land area acquired for the Project
- Land type and land use
- Ownership, tenure, and land use patterns
- Land acquisition procedures and compensation
- Existing civic facilities and infrastructures
- Cultural systems and sites

- (iii) **Step 3:** In parallel to AP census survey, continue consultation with APs to identify their preferences and special needs that the RP needs to address. In addition, information on market prices for land, crops, and other assets need to be collected from respective provincial, district, and commune authorities and the local market, so that the cost estimates for the RP can be done.
- (iv) **Step 4:** Prepare the RP in approved format for the subproject. The Entitlement Matrix in this Framework will be used for each subproject and applied to the inventory of losses obtained from the DMS, specifying the number of APs, the size of land affected, the number of other assets affected, lost, and the compensation amount for each category of loss.
- (v) **Step 5:** Present the draft RP to the ADB and following approval, disseminate the RP at public meetings for the subproject as well as post on the ADB website. Any comments made during the meeting need to be minuted, and where appropriate, incorporated into the finalized RP.

80. The outline of a RP is enclosed in the **Appendix 3**. The RP must be updated following the completion of the detailed designs and conducting of the DMS. This will provide up to date and accurate figure regarding the scope of impact, identification of APs and severity of impact, as well as an updated compensation calculation. The RP should be reviewed to update any changes in market prices for replacement values and would need to be reviewed again at the time compensation is due for payment. If rates and prices are found to be out of date, revised updated costs must be used. The procedure for updating is also discussed below under RP Implementation.

81. If after initial screening a subproject is deemed to have no land-acquisition, an Official Letter shall be submitted to the CPMU by the PPMU confirming that there is no land acquisition required for the subproject improvement, rehabilitation. The CMPU, with support from its consultant, will verify the

situation and submit an Official Letter requesting ADB to issue no-objection letter for the subproject. Once the no-objection letter is issued, civil works can be started. The subprojects with no-land acquisition will be the subprojects to be monitored during ADB's missions and by external resettlement monitors.

### **C. Indigenous Peoples and Gender Issues**

82. Any resettlement issues affecting indigenous peoples shall strictly refer to the BCI 2 Indigenous Peoples Development Framework (CAM) for guidance. Similarly, the Project Gender Action Plan (GAP) will serve as reference as regards gender concerns.

## **VI. INSTITUTIONAL ARRANGEMENT AND IMPLEMENTATION**

### **A. Overview of the Arrangements**

83. Institutional arrangements pertaining to involuntary resettlement issues under the Project will follow those for other ADB-financed projects with MOE and MAFF. At the national level, the organizations involved are: (i) the inter-ministerial resettlement committee (IRC); (ii) MOE and MAFF; and (iii) Central Project Coordinating Unit (CPCU) with its designated Resettlement Coordinator and a National Social Safeguards Specialist. Both organizations have experience with ADB resettlement policy and procedures. At the provincial level, the organizations involved are: (i) the Provincial Resettlement Sub-Committee (PRSC); (ii) the Provincial Project Management Units (PPMU); and (iii) the Provincial Department of Economy and Finance (PDEF). At the district or subproject level, the organization involved is the District Resettlement Sub-Committee (DRSC). **Table 3** presents a matrix showing responsibilities of the various organizations in land acquisition and resettlement.

84. Aside from provision of grant monies for the project, the ADB reviews and approves resettlement plans.

### **B. The Inter-Ministerial Resettlement Committee**

85. The Inter-Ministerial Resettlement Committee (IRC) was established in 1999. The IRC is chaired on a permanent basis by the Ministry of Economy and Finance (MEF). The secretariat for the IRC is the Resettlement Department (MEF-RD) at MEF. The IRC is constituted for every project including this Project with membership from MEF, the Council of Ministers, the Ministry of Public Works and Transport, the Ministry of Agricultural, Forestry and Fisheries and Governors and Deputy Governors of project provinces. Members may also include representatives of other relevant ministries and/or provincial departments.

86. The IRC is responsible for the following aspects of land acquisition and resettlement for projects: (i) take the lead in conducting the DMS and replacement cost survey, (ii) approval of compensation rates; (iii) reporting to the Government on resettlement activities and request approval, if necessary, including endorsement for land acquisition and resettlement plans (RPs); and (iv) disbursement of funds to the PDEF for paying compensation and deliver all other entitlements to APs, in accordance with the approved RPs.

87. Other key responsibilities of the IRC specifically if resettlement is triggered and plans take effect are: (i) Development of resettlement site, (ii) Grievance redress, (iii) External RGC monitor to BCI 2 resettlement activities, (iv) Livelihood/Income restoration program. The IRC through coordination with the CPCU also provides support to (i) Preparation of draft resettlement plans, (ii) Implementation of Social Surveys, (iii) Public consultations, (iv) Review and approval of the RP, (v) Transferring funds to PDEF, and (vi) Payment to DPs.

**Table 3. Responsibilities of Various Organizations in Land Acquisition and Resettlement**

Activity	CPCU <sup>1</sup>	IRC	MEF	EX COM	PPMU <sup>2</sup>	PRSC	DT	DRSC	Commune	PDEF	ADB	MO
<b>At subproject selection stage</b>												
Subproject categorization	□				⊗		⊗					
Subproject screening	□				⊗		⊗					◆
Approval of subproject	⊗			□	⊗							
<b>At feasibility stage</b>												
Inventory of loss	⊗	□			⊗	⊗		⊗	⊗			
Public consultation	⊗				⊗	⊗	□	⊗	⊗			◆
Socio-economic surveys	□				□		⊗		⊗			
Preparation of resettlement plan (DRP)	□	⊗			□	⊗	⊗	⊗	⊗			
<b>At detailed design stage</b>												
Approval of draft resettlement plan	⊗	□			⊗						□	
Approval of budget for surveys	⊗	□	⊗		⊗		⊗					
Preparation/conducting DMS	⊗	□			⊗	⊗	⊗	⊗	⊗			◆
Implementation of Social Surveys	□	⊗			□	⊗		⊗	⊗			◆
Public consultations	⊗	⊗			⊗	⊗	□	⊗	⊗			◆
Finalizing the resettlement plan (RP)	□				□	⊗	⊗	⊗	⊗			
Review and endorsement of the RP	⊗	□	⊗									
Review and approval of the RP	⊗	⊗		◆							□	
<b>Resettlement implementation</b>												
Transferring funds to PDEF		⊗	□									
Payment to DPs	◆	⊗		◆	◆	⊗	◆	⊗	⊗	□		◆
Development of resettlement site, if any	⊗	□		◆		⊗		⊗	⊗			◆
Grievance redressing	⊗	□		◆	⊗	□		□	□			◆
Internal monitoring	□			◆	□		□					
External monitoring	⊗	□		◆	⊗	⊗	⊗	⊗	⊗		⊗	□
Livelihood/Income restoration program	□	□	⊗	◆	⊗	⊗		⊗	⊗		⊗	◆

Notes: <sup>1</sup>Assisted by Main consultants at central level and/or Detailed design supervision(DSC) consultants at PPMU office.

<sup>2</sup>Assisted by Social Specialist of central /or DSC consultants.

□Key responsibility/role.

⊗Supporting role.

◆Monitoring role.

88. Linked to IRC is the transfer of funds by the MEF to the PDEF to operationalize payments to DPs. As such, the MEF provides support in the (i) Approval of budget for surveys, (ii) Review and endorsement of the RP, and (iii) Livelihood/Income restoration program.

### **C. Central Project Coordinating Unit (CPCU)**

89. The CPCU under MOE and MAFF, respectively are responsible for the overall management of the Project. The CPCU will assure overall coordination, planning, implementation and reporting for the Project. The CPCU shall designate a Resettlement Coordinator within its level and coordinate closely with the IRC when triggers for IR are encountered. The CPCU shall further secure the services of a National Social Safeguards Specialist and Social Safeguards monitoring entities, and under the lead of the Resettlement Coordinator of the CPCU, coordinate closely with the IRC to oversee land acquisition and resettlement matters. The Resettlement Coordinator, as backed up by the Specialist and social safeguards monitoring organization will guide, support, endorse and monitor the work of the PPMU in each project province for all activities related to planning, implementation and monitoring of land acquisition and resettlement where required for the project subprojects, including:

- (i) Screen subproject and determine subproject resettlement impact categorization.
- (ii) Guide, support and oversee the work of PPMUs, DRSs and other stakeholders for all activities related to planning, implementation and monitoring of plans and activities for voluntary and involuntary land acquisition.
- (iii) Prepare resettlement plans (RPs) for subprojects with resettlement impacts, in concert with PRSC, submit to IRC for endorsement and ADB for approval. Coordinate with IRC and PRSC for conducting the detailed measurement surveys (DMS) including replacement cost survey.
- (iv) Coordinate internal monitoring activities including development of monitoring indicators, procedures and reporting requirements for all subproject that require resettlement. Review and compile provincial monitoring reports into one quarterly progress report, and oversee implementation of remedial actions as required.
- (v) With expertise from the National Social Safeguards Specialist, design and conduct socio-economic surveys, capacity building activities as well as IEC materials, and see through the implementation of the Livelihood/Income restoration program in coordination with the IRC.

90. As the focal entity, the CPCU is expected to provide assistance in (i) Inventory of loss, (ii) Public consultations, (iii) Approval of resettlement plan, (iv) Approval of budget for surveys, (v) Preparation/conducting DMS, (vi) Review, endorsement, and approval of the RP, (vii) Development of resettlement site, if any, and (viii) Grievance redressing.

### **D. Provincial Executive Committee (EX COM)**

91. The Governor's Office and the Executive Committee (EX COM or its successor body) will establish Provincial Project Management Units (PPMU) attached to the EX COM responsible for day to day implementation and management at provincial level project activities. The Governor in-charge of the project and EX COM will provide overall guidance and interagency coordination.

92. The EX COM will meet bi-annually or as and when required, to: review implementation progress; ensure adequate levels of coordination between key agencies; approve provincial workplans and budgets; and approve subprojects for financing under the grant. EX COM or its successor body will approve Subproject Investment Reports (SIRs) after obtaining the necessary concurrence of ADB for social and environmental safeguards. The PPMU will provide secretariat services to the "Provincial Steering Committee" within the EX COM.

93. Specifically, it is the EX COM that will approve all subprojects. It will monitor the conduct/implementation of (i) Review and approval of the RP, (ii) Payment to DPs, (iii) Development of resettlement site, if any, (iv) Grievance redressing, (v) Internal monitoring, (vi) External monitoring, and (vii) Livelihood/Income restoration program.

94. The PDEF takes lead in ensuring payments to DPs is made in a timely manner.

### **E. Provincial Project Management Units (PPMU)**

95. In each province, a PPMU is responsible for supporting planning, implementation, monitoring, overall management of subprojects financed under the Project, including land acquisition and resettlement as required, and supervision of the District Teams. For the duration of the Project, each PPMU will have one representative in the PRSC to assist the working group in carrying out land acquisition and resettlement activities. Capacity building of the PPMUs will need to be strengthened in areas of basic social planning, land acquisition and resettlement, poverty reduction, gender and IP concerns. It is included in the budget of main consultants.

96. The PPMU will coordinate with CPCU and PRSC, and will collaborate with DRSCs and other stakeholders in carrying out the land acquisition and resettlement planning and implementation. Specifically, together with the CPCU, key tasks in relation to this RF are: (i) conduct of Socio-economic surveys, (ii) Preparation and finalization of resettlement plans, and (iii) Internal monitoring. Its supporting roles are (i) Assist in activities related to Subproject categorization and screening, (ii) Approval of subproject, (iii) Inventory of loss, (iv) Public consultation, (v) Grievance redressing, (vi) coordinate for External monitoring, and (vii) Livelihood/Income restoration program. It will likewise monitor that payments are made to DPs.

### **F. District Team (DT)**

97. To assist in implementation at the district level, District Teams will be established within participating districts. The DTs will provide coordination and supervision of subproject activities at the district level. DTs will lead in the conduct of public consultations, livelihood restoration program, development of resettlement sites, securing and documenting agreements relating to on-demand subprojects relating to livelihoods and small scale infrastructure prioritized by the beneficiaries, and all other resettlement activities required to implement the approved RP.

98. DTs will assist with identification of associated initiatives during subproject feasibility; community development activities ensuring that no physical displacements, denial of access, and/or resettlement activities are being promoted by any subproject. DTs will likewise coordinate in monitoring and reporting on physical progress of implementation.

99. For the duration of the Project, each DT will have one representative in the DRSC to assist the working group in carrying out land acquisition and resettlement activities. Capacity building of the DTs will need to be strengthened in areas of basic social planning, land acquisition and resettlement, poverty reduction, gender and IP concerns. It is included in the budget of main consultants.

100. The DT will coordinate with PPMU and DRSC, and will collaborate with DRSCs and other stakeholders down to the Commune Councils in carrying out the land acquisition and resettlement planning and implementation.

### **G. Resettlement Sub-Committees**

101. **Provincial Resettlement Sub-Committee.** At the provincial level, each province has a provincial resettlement sub-committee (PRSC) to work closely with the IRC from the national level. The Provincial Governor (or his representative) chairs the PRSC, comprised of the directors of provincial departments involved in project implementation (Economic and Finance, Public Works and Transport, Environment, Rural Development/Indigenous Peoples Office, Environment, Land Management, Women's Affairs, etc.); and heads or deputy heads of the project districts. Under the guidance of the IRC supported by MOE, the PRSC will assume the following roles and responsibilities:

- (i) Guide, support and oversee the work of DRSs and other stakeholders for the assessment of land acquisition and resettlement impacts of subprojects; data collection and surveys; and all aspects of implementation and monitoring of resettlement activities.
- (ii) Guide, support and oversee all activities related to public disclosure of information, consultations with DPs and other stakeholders and grievance redress for all subprojects.

- (iii) Guide, support and oversee that appropriate measures are included to address the needs and preferences of women and female-headed households, poor households and other vulnerable DPs.
- (iv) Support the IRC in conducting the detail measurement survey (DMS) for the subproject during the detailed design stage. The officials from PDLMUPC would be the key party to the DMS.
- (v) As necessary, coordinate, guide and support district and commune authorities, NGOs, community organizations and other stakeholders to address requirements for relocation of DPs and/or income restoration strategies.
- (vi) Negotiate compensation rates with the DPs.
- (vii) Coordinate with the PPMU and oversee the payment of compensation and allowances to DPs by PDEF. The funds for payment of compensation and allowances to DPs will be disbursed by IRC directly to PDEF.
- (viii) Review and endorse monthly internal monitoring reports submitted by DRSS; consolidate and prepare quarterly monitoring reports, and submit to CPCU/IRC and ADB.
- (ix) Support IMO by ensuring full and timely disclosure of relevant information and coordinating IMO participation in subproject activities; review and endorse IMO reports and submit to IA, CPCU/IRC and ADB.

102. **District Resettlement Sub-committee.** At the district level the district resettlement sub-committee (DRSC), in which its jurisdiction area covers the subproject site, will be established. The DRSC is chaired by the District Chief Official and its members include the district officials from relevant line minister, Commune Chief (or designated representative), village representatives; representatives of DPs for subprojects, and local NGO. In order to address grievance issues of vulnerable DPs adequately, the membership of the DRSC will include female and, as relevant, IP representatives. More specifically, the DRSC shall:

- (i) Assist the field assessments for subprojects at feasibility study level to determine land acquisition and resettlement requirements, and collaborate with PPMU on preparation of feasibility study by including information related to voluntary or involuntary resettlement.
- (ii) Support field surveys such as DMS and social surveys under the guidance from IRC, CPCU and PPMU.
- (i) Organize all activities for public disclosure of information and consultations with DPs associated with the initial subproject location, anticipated impact of land acquisition and resettlement.
- (i) Receive, hear and resolve the complaints and grievances of DPs, preferably through a process of conciliation.
- (i) Coordinate with and assist CPMU and PPMU to prepare RPs for subprojects involving voluntary and involuntary land acquisition.
- (ii) Coordinate with and assist CPMU and PPMU and PRSCs to implement RPs including, among other activities, as required, identification of replacement land and implementation of income restoration measures; and, clearance of acquired land in coordination with schedules for civil works.
- (iii) Prepare monthly internal monitoring reports and submit to PRSC and CPCU.

103. The commune level key actors shall be the frontline for grievance redress.

## VII. BUDGET

104. The cost of resettlement will be calculated based on (i) the losses inventoried during the detailed measurement survey (DMS); (ii) the entitlements set out in the entitlement matrix of the RF; and, (iii) the findings of the replacement cost survey and reporting to establish current market prices. A contingency factor of 20% will be included in these cost estimates to be used as required during implementation of the RP.

105. An itemized budget in the RP is required for all resettlement activities, including compensation for land acquisition. An annual resettlement budget is prepared, showing the budget- scheduled expenditure for key items. Land acquisition and resettlement costs are reflected in the project costs.

106. Resettlement costs, including the income restoration and livelihood development, shall be from the counterpart fund of the Royal Government of Cambodia. The Ministry of Economy and Finance will provide the budget directly to the IRC and IRC will disburse the fund to PDEF for payments of Compensation and allowances to APs. The IRC and PDEF are responsible for arranging the resettlement budget sufficiently and timely allocated for resettlement activities.

## **VIII. MONITORING AND REPORTING**

107. Monitoring is the continuous process of assessment of project implementation, in relation to agreed schedules, the use of inputs, infrastructure and services by the Project. Monitoring provides all stakeholders with continuous feedback on implementation. It identifies actual or potential successes and problems as early as possible to facilitate timely correction during project operation. It provides systematic and continuous collection and analysis of information on the progress of the project. It is a tool to identify strengths and weaknesses and to enable timely decisions for corrections.

108. Implementing agencies shall assign staff responsible for internal monitoring of the Project RP at provincial level, as well as regularly external monitoring by MO.

### **A. Internal Monitoring**

109. All resettlement – related activities are monitored by internal monitoring experts who will follow-up the implementation of RP. The internal monitoring of RPs of sub-projects and main components is the responsibility of PPMU staff and implementation consultants. All specialists working for internal monitoring will cooperate closely with DRSC to implement and update resettlement data.

110. Monitoring Indicators are included:

- (i) An initial key indicator will be, as per assurances to the ADB, the payment of compensation, relocation to new sites, and rehabilitation assistance being in place before award of civil contracts and these will be monitored under each of the Civil Contracts.
- (ii) The other main indicators that will be monitored regularly are:
  - Payment of compensation to all APs in various categories, according to the compensation policy described in the RP.
  - Delivery of technical assistance, relocation, payment of subsistence and moving allowances.
  - Delivery of income restoration and social support entitlements.
  - Public information dissemination and consultation procedures.
  - Adherence to grievance procedures and outstanding issues requiring management's attention.
  - Priority of APs regarding the options offered.
  - Coordination and completion of resettlement activities and award of civil works contract.
  - The benefits provided from the BCI 2

111. The implementing agencies will periodically collect information from the different resettlement committees. A database of resettlement monitoring information regarding the Project shall be maintained and updated.

112. The P/DRSCs, assisted by project consultants will submit to CPCU and ADB semi-annual/annual progress reports: a monitoring report on the progress of implementation of the RP every 6 months, from the ADB's approving of the updated RP. The internal monitoring reports shall include the following topics:

- (i) The number of APs by category of impact per component, and the status of compensation payment and relocation and income restoration for each category.



- (ii) The amount of funds allocated for operations or for compensation and the amount of funds disbursed for each.
- (iii) The eventual outcome of complaints and grievances and any outstanding issues requiring action from management.
- (iv) Implementation problems.
- (v) Revised actual resettlement implementation schedule.

## **B. External Monitoring**

113. The services of an external entity or institute as the qualified experienced external monitoring organization (MO) will be retained by project management to undertake objective monitoring and evaluation of RP implementation of BCI 2 Project.

114. **Monitoring and Evaluation Indicators:** The following indicators will be monitored, upon approval of this RP, and evaluated by the MO:

- (i) In the DMS of asset and land loss, external MO need to be involved in monitoring role to ensure transparency and accountability.
- (ii) Payment of compensation will be as follows: (a) Full payment to be made to all affected persons sufficiently before land acquisition; adequacy of payment to replace affected assets; and (b) Compensation for affected structures should be equivalent to the replacement cost of materials and labor based on standards and special features of construction with no deductions made for depreciation or the value of salvageable materials.
- (iii) Coordination of resettlement activities with construction schedule: the completion of land acquisition and resettlement activities for any component should be completed prior to award of the civil works contract for that component.
- (iv) Provision of technical assistance for house construction to APs who are rebuilding their structures on their remaining land, or building their own structures in new places as arranged by the project, or on newly assigned plots.
- (v) Provision of income restoration assistance under the Project.
- (vi) Entitlements of BCI 2 project benefits
- (vii) Public consultation and awareness of compensation policy: (a) All APs should be fully informed and consulted about land acquisition, leasing and relocation activities; (b) The monitoring team should attend at least one public consultation meeting each month to monitor public consultation procedures, problems and issues that arise during the meetings, and solutions that are proposed; (c) Public awareness of the compensation policy and entitlements will be assessed among all APs; (d) Assessment of awareness of various options available to APs as provided for in the RP.
- (viii) Affected persons should be monitored regarding restoration of productive activities.
- (ix) The level of satisfaction of APs with various aspects of the RP will be monitored and recorded. The operation of the mechanisms for grievance redress, and the speed of grievance redress will be monitored.
- (x) Throughout the implementation process, the trends of living standards will be observed and surveyed. Any potential problems in the restoration of living standards will be reported.

115. **Monitoring Methods:** The methodology for conducting monitoring and evaluation of the RP implementation includes the following activities, which will commence upon approval of this updated RP:

- (i) A socioeconomic survey is required before, during, and after resettlement implementation to provide a clear comparison of success/failure of the resettlement plan. The sample size should be 100% of relocating households and severely affected farmers, and at least 20% of all other households. The sample survey should be conducted twice a year, using the same or similar questionnaire as that used for the DMS baseline, and sampling the same 20% of marginally affected APs and 100% of severely affected APs.

- (ii) The survey should not omit women, elderly persons, and other vulnerable target groups. It should have equal representation of male and female respondents. Certain set questions in the interview should be specifically categorized to be answered by female members of the family only.
- (iii) A post-resettlement evaluation will be carried out 6 to 12 months after completion of all resettlement activities.
- (iv) Periodic participatory evaluations and appraisals allow the MO to consult with the various stakeholders (local government; the Compensation, Support and Resettlement Committees, implementing agencies; nongovernmental organizations; community leaders; and APs). Participatory rapid appraisals will involve obtaining information, identifying problems and finding solutions through participatory means which will include the following:
  - Key informant interviews with selected local leaders, resettlement committee members.
  - Focus group discussions on specific topics such as compensation payment, income restoration, and relocation.
  - Community public meetings to discuss community losses and impacts, construction work employment.
  - Structured direct field observations on the status of resettlement implementation, plus individual and group interviews for cross-checking purposes.
  - Informal surveys and interviews of APs, host communities, special interest or vulnerable groups and women.
  - In-depth case studies of problems that have arisen during internal or external monitoring requiring special efforts for resolution.

116. The MO will maintain a database of resettlement monitoring information that will be updated every 6 months. It will contain certain files on each affected household and will be updated based on information collected in successive rounds of data collection. All databases compiled will be fully accessible by implementing agencies and P/DRSCs.

117. The MO is required to submit the findings of the periodical monitoring every 6 months. These monitoring reports shall be submitted at the end of each quarter of monitoring activity to the PMU, which in turn will submit these reports to ADB as an annex of its progress report

118. The report will contain (i) a report on the progress of RP implementation, (ii) deviations, if any, from the provisions and principles of the RP, (ii) identification of problem issues and recommended solutions so that implementing agencies are informed about the ongoing situation and can resolve problems in a timely manner, and (iv) a report on progress of the follow-up of problems and issues identified in the previous report.

119. The monitoring reports will be discussed in a meeting between the MO, P/DRSCs and implementing agencies held immediately after submission of the report. Necessary follow-up action will be taken based on the problems and issues identified in the reports and follow-up discussions.

120. Evaluation is an assessment at a given point of time of the impact of resettlement and whether stated objectives have been achieved. The external monitor will conduct an evaluation of the resettlement process and impact 6 to 12 months after completion of all resettlement activities, using the same survey questionnaire and sample as used during the monitoring activities.

## Appendix 1. Entitlement Matrix

Impact/ Loss and Application (*)	Eligible Persons	Entitlements	Implementation Issues
<p><b>Marginal Loss of Productive Land (Agriculture/Aquaculture/Forest/Garden)</b>  <b>Marginal loss</b> (i.e., losses under or equal to 10% of the total productive land; land is still economically <i>viable for use or meets the</i> expected personal yield)  This will be confirmed by the Provincial Resettlement Sub- committee (PRSC) and concurred with by the DP during the detailed measurement survey or DMS</p>	Owners with legal or legalizable/ recognized rights; and those covered by customary rights, such as members of IP groups	<p>A. For the portion that will be acquired permanently by the Project:</p> <ol style="list-style-type: none"> <li><b>Cash compensation for portion land loss</b> which is equivalent to current market price and free from transaction costs (e.g., taxes, certification, and administration costs).</li> <li><b>Additional Living Allowances will be provided for 6 months to vulnerable Affected Households:</b> <ul style="list-style-type: none"> <li>- Female-headed household</li> <li>- Disable and elderly-headed household</li> <li>- Poor households who have income below national poverty line.</li> </ul> </li> <li>Bonus Allowance if land is handed over in time.</li> <li>Entitled to BCI-II benefit schemes and included in the Component 3 of the Project.</li> </ol> <p>B. For the portion to be used temporarily during the Project:</p> <ol style="list-style-type: none"> <li><b>Cash rental</b> to be negotiated by DRSC with the DP.</li> <li>Restoration of the land after use. If the land is not returned and restored to pre-project condition, the AP will receive compensation and allowance above.</li> </ol>	<p>The viability of remaining land will be officially determined by DRSC and concurred with by PRSC and the affected household during the Detailed Measurement Survey (DMS).</p> <p>All compensation costs and allowance to be approved by the IRC in accordance with replacement cost survey.</p>
	Users with lease or permissory rights	<p>A. For the portion that will be acquired permanently by the Project:</p> <ol style="list-style-type: none"> <li><b>No compensation for land loss, but rent in Cash Assistance</b> (\$xx/Sq.m/year) for the period of disruption, equivalent to rent price evidence in lease agreement or/and permission license; and full replacement cost for non-land assets and investment on land to land user.</li> <li><b>Additional Living Allowances will be provided for 6 months to vulnerable Affected Households:</b> <ul style="list-style-type: none"> <li>- Female-headed household</li> <li>- Disable and elderly-headed household</li> <li>- Poor household who have income below national poverty line.</li> </ul> </li> <li>Bonus Allowance if land is handed over in time.</li> <li>Entitled to BCI 2 benefit schemes and included in the Component 3 of the Project.</li> </ol> <p>B. For the portion to be used temporarily during the Project:</p>	<p><i>There may be households who have been living and making livelihoods in the protected or reserved areas without permission of local authority, but customarily. If land is recovered, full compensation shall be made for the non-land assets and investment on lands. Assistances to remain their living level will be provided and they are automatically included in the Component 3 of the Project.</i></p> <p>All compensation costs and allowance to be approved by the IRC in accordance with replacement cost survey.</p> <p>Additional Living Allowance was calculated by IRC in the following formula:  = (Price of 20Kg rice x 6 months x</p>

Impact/ Loss and Application (*)	Eligible Persons	Entitlements	Implementation Issues
		a. <b>Cash rental</b> to be negotiated by DRSC with the DP. b. Restoration of the land after use. If the land is not returned and restored to pre-project condition, the AP will receive compensation and allowance above.	number of persons of household).
	Non-legal users	A. For the portion that will be acquired permanently by the Project: <b>a. No Compensation for land loss, but</b> full replacement cost for non-land assets and investment on land to land user. <b>c. Additional Living Allowances will be provided for 6 months to vulnerable Affected Households:</b> <ul style="list-style-type: none"> <li>- Female-headed household</li> <li>- Disable and elderly-headed household</li> <li>- Poor household who have income below national poverty line.</li> </ul> d. Bonus Allowance if land is handed over in time. e. Entitled to BCI 2 benefit schemes and included in the Component 3 of the Project.  B. For the portion to be used temporarily during the Project: a. <b>Cash rental</b> to be negotiated by DRSC with the DP. b. Restoration of the land after use. If the land is not returned and restored to pre-project condition, the AP will receive compensation and allowance above.	Additional Living Allowance was calculated by IRC in the following formula: = (Price of 20Kg rice x 6 months x number of persons of household).
<b>Severe Loss of Productive Land (Agriculture/Aquaculture/Forest/Garden)</b> <b>Severe loss or permanent loss</b> (i.e., land no longer viable for continued use or does not meet the expected personal yield, therefore the entire property has to be acquired.) This will be confirmed by the Provincial Resettlement Sub- committee (PRSC) and concurred with by the DP during the detailed measurement survey or DMS.	Owners with legal or legalizable/ recognized right; and those covered by customary rights, such as members of IP groups	a. <b>Cash compensation at replacement cost</b> for the entire land, or <b>land-for- land</b> of equivalent which is equivalent to current market price and free from transaction costs (e.g., taxes, certification, and administration costs). Cash compensation was between US\$2.25 and US\$ 2.75. b. <b>Cash Assistance</b> for acquiring and developing new farmland. It was US\$9.75 per m <sup>2</sup> (apply only the same size of entire loss land). c. <b>Living Allowances will be provided for 6 months to vulnerable Affected Households:</b> <ul style="list-style-type: none"> <li>- Female-headed household</li> <li>- Disable and elderly-headed household</li> <li>- Poor household who have income below national poverty line.</li> </ul> d. Disruption allowance e. Bonus Allowance if land is handed over in time. f. Entitled to take part in the <b>income restoration program</b> (Components 2 & 3)	<i>The viability of remaining land will be officially determined by DRSC and concurred with by the affected household during the Detailed Measurement Survey (DMS). Even if replacement land is available, DPs can still opt land for land or cash for land at the replacement cost.</i>

Impact/ Loss and Application (*)	Eligible Persons	Entitlements	Implementation Issues
	Users with lease or permissory right	<p>a. <b>No compensation for land loss, but rent in Cash Assistance</b> (\$xx/Sq.m/year) for the period of disruption and for entire loss land, equivalent to rent price evidence in lease agreement or/and permission license; and full replacement cost for non-land assets and investment on land to land user.</p> <p>b. <b>Cash Assistance</b> for acquiring and developing new farmland. It was US\$9.75 per m<sup>2</sup> (apply only the same size of entire loss land).</p> <p>c. <b>Additional Living Allowances will be provided for 6 months to vulnerable Affected Households:</b></p> <ul style="list-style-type: none"> <li>- Female-headed household</li> <li>- Disable and elderly-headed household</li> <li>- Poor household who have income below national poverty line.</li> </ul> <p>d. Disruption allowance</p> <p>e. Bonus Allowance if land is handed over in time.</p> <p>f. Entitled to take part in the <b>income restoration program</b> (Components 2 &amp; 3)</p>	<p><i>There may be households who have been living and making livelihoods in the protected or reserved areas without permission of local authority, but customarily. If land is recovered, full compensation shall be made for the non-land assets and investment on lands. Assistances to remain their living level will be provided and they are automatically included in the Component 3 of the Project.</i></p>
	Non-legal users	<p>a. <b>No Compensation for land loss, but</b> full replacement cost for non-land assets and investment on land to land user.</p> <p>b. <b>Cash Assistance</b> for acquiring and developing new farmland. It was US\$9.75 per m<sup>2</sup> (apply only the same size of entire loss land)</p> <p>c. <b>Additional Living Allowances will be provided for 6 months to vulnerable Affected Households:</b></p> <ul style="list-style-type: none"> <li>- Female-headed household</li> <li>- Disable and elderly-headed household</li> <li>- Poor household who have income below national poverty line.</li> </ul> <p>d. Disruption allowance</p> <p>e. Bonus Allowance if land is handed over in time.</p> <p>f. Entitled to take part in the <b>income restoration program</b> (Components 2 &amp; 3)</p>	
Loss of income / livelihood due to loss of productive land: Loss of 10% or more of total productive land	DP losing productive land regardless of tenure status	<b>Compensation for loss of land use and net income</b> from subsequent crops/fruits/ trees that cannot be planted on the land loss.	
<b>Land use restriction or loss of livelihood sources because of conservation zoning and mapping</b>	Regardless of legal status	<ul style="list-style-type: none"> <li>• Income restoration and livelihood development assistances shall be provided. The level of assistance will be finalized during consultations with the APs and during the RP preparation as approved by IRC.</li> </ul>	

Impact/ Loss and Application (*)	Eligible Persons	Entitlements	Implementation Issues
		<ul style="list-style-type: none"> <li>• APs shall be entitled to the benefit schemes of BCI 2 and automatically included in Component 3 of the Projects</li> </ul>	
Loss of resource base: Loss of Land and Non- Land Assets: Severely affected APs losing 10% or more of productive assets and livelihoods, regardless of tenure status; and vulnerable groups	Regardless of legal status	Income restoration program to be designed in a participatory manner during the updating of the RP and which will include, among others, any of the following measures: (i) alternative livelihood; (ii) improved agricultural production; (iii) access to credit facilities for productive endeavors; and (iv) appropriate skills training.	
<b>Partial Loss of Residential Land</b> *Will not Require Relocation <b>Marginal loss</b> (i.e., land is still economically viable for use or meets the expected personal yield) This will be confirmed by the Provincial Resettlement Sub- committee (PRSC) and concurred with by the DP during the detailed measurement survey or DMS.	Owners with legal or legalizable/ recognized right; and those covered by customary rights, such as members of IP groups	A. For the portion that will be acquired permanently by the Project: <b>a. Compensation for portion of land loss</b> , which is equivalent to current market price and free from transaction costs (e.g., taxes, certification, and administration costs). <b>b. Additional Living Allowances will be provided for 6 months to vulnerable Affected Households:</b> <ul style="list-style-type: none"> <li>- Female-headed household</li> <li>- Disable and elderly-headed household</li> <li>- Poor household who have income below national poverty line.</li> </ul> <b>c. Bonus Allowance</b> if land is handed over in time. <b>d. Entitled to BCI 2 benefit schemes</b> and included in the Component 3 of the Project.  B. For the portion to be used temporarily during the Project: <b>a. Cash rental</b> to be negotiated by DRSC with the DP. <b>b. Restoration of the land after use.</b> If the land is not returned and restored to pre-project condition, the AP will receive compensation and allowance above.	<i>The viability of remaining land will be officially determined by DRSC and concurred with by the affected household during the Detailed Measurement Survey (DMS).</i>
	Users with lease or permissory right and Non-legal users	A. For the portion that will be acquired permanently by the Project: <b>a. No Compensation for land loss</b> , but full replacement cost for non-land assets and investment on land to land user. <b>b. Additional Living Allowances will be provided for 6 months to vulnerable Affected Households:</b> <ul style="list-style-type: none"> <li>- Female-headed household</li> <li>- Disable and elderly-headed household</li> <li>- Poor household who have income below national poverty line.</li> </ul> <b>c. Bonus Allowance</b> if land is handed over in time. <b>d. Entitled to BCI 2 benefit schemes</b> and included in the Component 3 of the Project.	<i>There may be households who have been living in the protected areas for years customarily and they have no legal paper for their residential land. There will be no compensation for the affected non-legal residential land, but arrangements for their relocation in a resettlement site should be provided. Alternatively, cash assistance for their self-relocation should be provided. The actual amount of cash assistance or special arrangements will be decided by the PRSC during RP updating before RP implementation</i>

Impact/ Loss and Application (*)	Eligible Persons	Entitlements	Implementation Issues
		<p>B. For the portion to be used temporarily during the Project:</p> <p>a. <b>Cash rental</b> to be negotiated by DRSC with the DP.</p> <p>b. Restoration of the land after use. If the land is not returned and restored to pre-project condition, the AP will receive compensation and allowance above.</p>	
<p><b>Total Loss of Residential Land Severe loss</b> (i.e., land no longer viable for continued use; the entire property has to be acquired). This will be confirmed by the Provincial Resettlement Sub- committee (PRSC) and concurred with by the DP during DMS</p>	<p>Owners with legal or legalizable/ recognized right; and those covered by customary rights, such as members of IP groups</p>	<p>a. Cash compensation for entire land loss at replacement cost which is equivalent to current market price and free from transaction costs (e.g., taxes, certification, and administration costs). <b>Plus:</b> cash assistance for self-relocation equivalent to investment cost per household at the resettlement site <b>OR</b> Plot at the resettlement site which will be constructed by the PRSC of similar attributes with secure tenure. The process of compensation a plot at the resettlement site will be as follows:</p> <ul style="list-style-type: none"> <li>➤ The area of allocated plot(s) at the resettlement site will be the same area of plot(s) acquired for the project (depends on the number and area of affected residential land, thus, one affected HH could be allocated with more than one standard plot at the resettlement site and based on the DPs' preference).</li> <li>➤ If the selling cost of plot(s) at the new site is more than the value of the affected residential land, DPs receive new plot at no additional cost.</li> <li>➤ If the plot(s) at the new site is equal the value of affected residential land, DPs receive new plot at the new site without any balance. If the plot(s) at the new site is less than the value of affected residential land, DPs will receive plot and the difference in cash.</li> </ul> <p><b>b. Additional Living Allowances will be provided for 6 months to vulnerable Affected Households:</b></p> <ul style="list-style-type: none"> <li>- Female-headed household</li> <li>- Disable and elderly-headed household</li> <li>- Poor household who have income below national poverty line.</li> </ul> <p>c. Bonus Allowance if land is handed over in time.</p>	<p><i>The viability of remaining land will be officially determined by DRSC and concurred with by the affected household during the Detailed Measurement Survey (DMS).</i></p> <p><i>The planning and detailed design for the relocation sites will be done under the management of DRSC in consultation with stakeholders.</i></p>
	<p>Non-legal users</p>	<ul style="list-style-type: none"> <li>• No cash assistance or compensation for land, except affected properties on the land.</li> <li>• Compensation at replacement cost for non-land assets</li> </ul>	<p><i>There may be households who have been living in the protected areas for years customarily and they have no legal paper for their residential land. There will be no compensation for the</i></p>



Impact/ Loss and Application (*)	Eligible Persons	Entitlements	Implementation Issues
			<i>affected non-legal residential land, but arrangements for their relocation in a resettlement site should be provided. Alternatively, cash assistance for their self-relocation should be provided. The actual amount of cash assistance or special arrangements will be decided by the PRSC during RP updating before RP implementation</i>
<b>Loss of Garden/Pond Land that cannot be Certified/Recognized as Residential Land</b>	(i) Owners with LURC; (ii) Owners in the process of acquiring LURC; (iii) Owners Eligible to acquire LURC;	a. In addition to payment for affected land based on replacement cost of garden/pond land, APs will be entitled to cash assistance for acquiring and developing new land. b. Bonus Allowance if land is handed over in time	<i>The IRC will make the decision on the amount of assistance based on actual condition. Average cash assistance given was US\$9.75 per m<sup>2</sup> (apply only the same size of entire loss land). The actual amount will be finalized during RP updating.</i>
<b>Partial Impacts on Houses and Shops Marginal impact</b> (i.e., unaffected portion of the house is still viable for use and no relocation required) This will be confirmed by the PRSC and concurred with by the DP during the DMS	Owners of the structures with or without acceptable proof of ownership over the land; with or without building permit	a. Cash compensation at replacement cost for the affected portion which is equivalent to the current market value of a newly built house or house-cum-shop and with no depreciation or deduction for salvageable materials for the affected portion. b. Repair allowance equivalent to the actual cost of repair. c. Disruption allowance d. Additional Living Allowances will be provided for 6 months to vulnerable Affected Households: - Female-headed household - Disable and elderly-headed household - Poor household who have income below national poverty line.	<i>There are 4 types of structures for houses and shop to classified for compensation. The actual amount will be finalized during RP updating.</i>
<b>Total Impacts on Houses and Shops Severe impact</b> (i.e., house is no longer viable for continued use and the entire structure is to be acquired This will be confirmed by the PRSC and concurred with by the DP during the DMS)	Owners of the structures with or without acceptable proof of ownership over the land; with or without building permit	a. Cash compensation at replacement cost for the entire house and shop which is equivalent to the current market value of a newly built house and shop and with no depreciation or deduction for salvageable materials. b. Disruption allowance c. Additional Living Allowances will be provided for 6 months to vulnerable Affected Households: - Female-headed household - Disable and elderly-headed household - Poor household who have income below national poverty line.	<i>Relocation of shop can be on remaining land or to a new plot of land at the resettlement site/commercial site or a plot of land that the APs chose (self-relocation).</i>
	Relocating DP households regardless of tenure status	<b>Materials transport allowance</b> provided as approved by IRC.	



Impact/ Loss and Application (*)	Eligible Persons	Entitlements	Implementation Issues
		<b>Transition subsistence</b> (community/income restoration) <b>allowance</b> provided as approved by IRC.	
<b>Loss of Income from Business</b> <b>Marginal impact</b> (i.e., disruption of business due to reorganization of the shop on the residual land; disruption of employment of less than 3 months)	Shop owners (regardless of tenure status) and employees/laborers of affected assets	<b>Transition subsistence</b> (community/income restoration) <b>allowance</b> provided as approved by IRC.	
<b>Severe impacts on Business</b> (i.e., disruption of business due to relocation of shop; and disruption of employment for more than 3 months)		<ul style="list-style-type: none"> <li>• <b>Materials transport allowance</b> provided as approved by IRC.</li> <li>• <b>Transition subsistence</b> (community/income restoration) <b>allowance</b> provided as approved by IRC.</li> </ul>	
<b>Disruption During Relocation</b>	Relocating households whose house are totally affected and will have to move on remaining land or new plot of land	a. Life stabilization allowance equivalent to 20 kg of rice per month and per member of household. The allowance period will depend on the estimated transition period. b. Materials Relocation and Transportation Allowance which will be equivalent to the actual cost of moving (vehicle and labor) and c. House Rental Allowance if APs have no other accommodation while waiting for new accommodation (i.e., while AP is rebuilding house or waiting for house being built by a contractor at the resettlement site). d. For households who are certified by the government as vulnerable household, additional cash assistance will be provided.	<i>The actual amount per type of assistance will be determined during RP updating to reflect actual conditions.</i>
<b>Higher Risks of Impoverishment/Hardship Due to Loss of Resource Base</b>	Affected vulnerable groups regardless of severity of impacts	a. <b>Additional support allowance</b> to cover for additional human resources needed to help them rebuild their houses and re- establish their livelihood. b. Entitled to take part in income restoration program/measures to be designed during RP updating. c. Entitled to the benefit schemes and automatically included in the Component 3 of the Project	<i>The actual amount and period of assistance will be determined during RP updating to reflect actual needs of each vulnerable household.</i>
<b>Loss of Secondary Structures</b> Secondary Structures (fence, kitchen, latrine, etc) Loss of, or damage to, assets	Owners of the structures with or without acceptable proof of ownership over the land; with or without building permit	<b>Cash compensation at replacement cost</b>	<i>The actual amount and period of assistance will be determined during RP updating to reflect actual needs of each vulnerable household.</i>
<b>Impacts on Crops, Trees and Aquaculture Products</b>	Owners regardless of tenure status		With regard to fruit trees and timber trees, the compensation at replacement cost based on their age, productive capacity, and/or market value and

Impact/ Loss and Application (*)	Eligible Persons	Entitlements	Implementation Issues
			<p>according to the formula below:</p> <p>a. 1 ~ 3 years old: compensated at 1/3 its full price (as it can be re-planted)</p> <p>b. 3 ~ 5 years old: compensated at 2/3 its full price</p> <p>c. More than 5 years old: full amount of compensation</p>
Impacts on Public Facilities, Communal Owned Assets and Collective Assets	Owners		<i>To be agreed between DRSC and owner during RP updating</i>

## Appendix 2. Sample Cost Table as Approved by the IRC, August 2010

Item	Description	Unit	Quantity	Rate (US\$)	Cost (US\$)
<b>I</b>	<b>Allowances</b>				
	1 Disruption allowance	No.		\$44.80	
	2 Female Headed Households	No.		\$22.40	
	3 Disable Headed Households	No.		\$22.40	
	4 Poor households have Income less than \$10 per month	No.		\$22.40	
	5 Allowance due to loss of business	No.		\$44.80	
<b>II</b>	<b>Structure (Square meters)</b>				
	1 Structure Type I	Sq.m		\$10.80	
	2 Structure Type II	Sq.m		\$25.30	
	3 Structure Type III	Sq.m		\$139.60	
	4 Structure Type IV	Sq.m		\$227.70	
<b>III</b>	<b>Locations for opening the new sites</b>				
	1 Purchase land outside the ROW	Sq.m		\$2.24	
	2 Rent Land outside the ROW (2 years)	Sq.m		\$0.24/Sq.m/y	
<b>IV</b>	<b>Other Physical Assets</b>				
	1 Wells	No.		\$100.00	
	2 Pump Wells	No.		\$84.00	
	3 Wood or Wire or Corrugated Fence	M		\$0.90	
	4 Concrete Fence	M		\$15.00	
	5 Cementary	No.		\$2,000.00	
	6 Wooden Bridge	Sq.m		\$11.00	
	7 Concrete Bridge	Sq.m		\$21.00	
	12 Other Assets (Toilet, Stair, Basin etc.)	L.S			
<b>V</b>	<b>Fruit Tree</b>				
	1 Coconut	No.		\$20.00-\$50.00	Varies
	2 Mango	No.		-	
	3 Tamarind	No.		-	
	4 Bamboo	No.		-	
	5 Jack Fruit	No.		-	
	6 Komping Reach	No.		-	
	7 Banana	No.		-	
<b>VI</b>	Community Restoration (Income)	No.		\$9565.55	Varies
<b>VII</b>	Development of Resettlement Sites	Family		\$8916.67	Varies
<b>VIII</b>	Relocation Cost for Optical Cable	1 Km		\$1,200.00	Varies
<b>IX</b>	Relocation Cost for Electrical Wire & Poles	1 Km		\$700.00	Varies
<b>TOTAL COMPENSATION COST</b>					

**Note:**

1. Structure Type 1: Wood Wall, Wood Floor, Corrugated Tin Roof, Wood Column
2. Structure Type 2: Wood Wall, On Land Floor, Corrugated Tin Roof, Wood Column
3. Structure Type 3: Wood Wall, Tile/Concrete Floor, Corrugated Tin Roof, Wood Column
4. Structure Type 4: Concrete Wall, Concrete Floor, Concrete Roof, Concrete Column

### **Appendix 3: Outline of a Resettlement Plan**

1. This outline is part of the Safeguard Requirements 2. A resettlement plan is required for all projects with involuntary resettlement impacts. Its level of detail and comprehensiveness is commensurate with the significance of potential involuntary resettlement impacts and risks. The substantive aspects of the outline will guide the preparation of the resettlement plans, although not necessarily in the order shown.

#### **A. Executive Summary**

2. This section provides a concise statement of project scope, key survey findings, entitlements and recommended actions.

#### **B. Project Description**

3. This section provides a general description of the project, discusses project components that result in land acquisition, involuntary resettlement, or both and identify the project area. It also describes the alternatives considered to avoid or minimize resettlement. Include a table with quantified data and provide a rationale for the final decision.

#### **C. Scope of Land Acquisition and Resettlement**

4. This section: (i) discusses the project's potential impacts, and includes maps of the areas or zone of impact of project components or activities; (ii) describes the scope of land acquisition (provide maps) and explains why it is necessary for the main investment project; (iii) summarizes the key effects in terms of assets acquired and displaced persons; and (iv) provides details of any common property resources that will be acquired.

#### **D. Socioeconomic Information and Profile**

5. This section outlines the results of the social impact assessment, the census survey, and other studies, with information and/or data disaggregated by gender, vulnerability, and other social groupings, including: (i) define, identify, and enumerate the people and communities to be affected; (ii) describe the likely impacts of land and asset acquisition on the people and communities affected taking social, cultural, and economic parameters into account; (iii) discuss the project's impacts on the poor, indigenous and/or Indigenous Peoples, and other vulnerable groups; and (iv) identify gender and resettlement impacts, and the socioeconomic situation, impacts, needs, and priorities of women.

#### **E. Information Disclosure, Consultation, and Participation**

6. This section: (i) identifies project stakeholders, especially primary stakeholders; (ii) describes the consultation and participation mechanisms to be used during the different stages of the project cycle; (iii) describes the activities undertaken to disseminate project and resettlement information during project design and preparation for engaging stakeholders; (iv) summarizes the results of consultations with affected persons (including host communities), and discusses how concerns raised and recommendations made were addressed in the resettlement plan; (v) confirms disclosure of the draft resettlement plan to affected persons and includes arrangements to disclose any subsequent plans; and (vi) describes the planned information disclosure measures (including the type of information to be disseminated and the method of dissemination) and the process for consultation with affected persons during project implementation.

#### **F. Grievance Redress Mechanisms**

7. This section describes mechanisms to receive and facilitate the resolution of affected persons' concerns and grievances. It explains how the procedures are accessible to affected persons and gender sensitive.

#### **G. Legal Framework**

8. This section: (i) describes national and local laws and regulations that apply to the project and identify gaps between local laws and ADB's policy requirements; and discuss how any gaps will be addressed. (ii) describes the legal and policy commitments from the executing agency for all types of displaced persons; (iii) outlines the principles and methodologies used for determining valuations and compensation rates at replacement cost for assets, incomes, and livelihoods; and set out the compensation and assistance eligibility criteria and how and when compensation and assistance will be provided. (iv) describes the land acquisition process and prepare a schedule for meeting key procedural requirements.

## **H. Entitlements, Assistance and Benefits**

9. This section: (i) Defines displaced persons' entitlements and eligibility, and describes all resettlement assistance measures (includes an entitlement matrix); (ii) Specifies all assistance to vulnerable groups, including women, and other special groups; and, (iii) Outlines opportunities for affected persons to derive appropriate development benefits from the project.

## **I. Relocation of Housing and Settlements**

10. This section: (i) describes options for relocating housing and other structures, including replacement housing, replacement cash compensation, and/or self-selection (ensure that gender concerns and support to vulnerable groups are identified); (ii) describes alternative relocation sites considered; community consultations conducted; and justification for selected sites, including details about location, environmental assessment of sites, and development needs; (iii) provides timetables for site preparation and transfer; (iv) describes the legal arrangements to regularize tenure and transfer titles to resettled persons; (v) outlines measures to assist displaced persons with their transfer and establishment at new sites; (vi) describes plans to provide civic infrastructure; and (vii) explains how integration with host populations will be carried out.

## **J. Income Restoration and Rehabilitation**

11. This section: (i) identifies livelihood risks and prepare disaggregated tables based on demographic data and livelihood sources; (ii) describes income restoration programs, including multiple options for restoring all types of livelihoods (examples include project benefit sharing, revenue sharing arrangements, joint stock for equity contributions such as land, discuss sustainability and safety nets); (iii) outlines measures to provide social safety net through social insurance and/or project special funds; (iv) describes special measures to support vulnerable groups; (v) explains gender considerations; and (vi) describes training programs.

## **K. Resettlement Budget and Financing Plan**

12. This section: (i) provides an itemized budget for all resettlement activities, including for the resettlement unit, staff training, monitoring and evaluation, and preparation of resettlement plans during loan implementation. (ii) describes the flow of funds (the annual resettlement budget should show the budget-scheduled expenditure for key items). (iii) includes a justification for all assumptions made in calculating compensation rates and other cost estimates (taking into account both physical and cost contingencies), plus replacement costs. (iv) includes information about the source of funding for the resettlement plan budget.

## **L. Institutional Arrangements**

13. This section: (i) describes institutional arrangement responsibilities and mechanisms for carrying out the measures of the resettlement plan; (ii) includes institutional capacity building program, including technical assistance, if required; (iii) describes role of NGOs, if involved, and organizations of affected persons in resettlement planning and management; and (iv) describes how women's groups will be involved in resettlement planning and management,

## **M. Implementation Schedule**

14. This section includes a detailed, time bound, implementation schedule for all key resettlement and rehabilitation activities. The implementation schedule should cover all aspects of resettlement activities synchronized with the project schedule of civil works construction, and provide land acquisition process and timeline.

## **N. Monitoring and Reporting**

15. This section describes the mechanisms and benchmarks appropriate to the project for monitoring and evaluating the implementation of the resettlement plan. It specifies arrangements for participation of affected persons in the monitoring process. This section will also describe reporting procedures.

## **Appendix 4: Guidelines for Census, Socioeconomic Survey and Replacement Cost Survey**

### **1. Census of APs and Inventory of Affected Assets**

1. A census of APs and their households and the inventory of assets to be acquired serve two vital functions. The primary function is to identify APs eligible for resettlement entitlements, which is especially important if disclosure of subproject plans is likely to encourage land invasion and fraudulent claims for compensation. The census and inventory also supply an important part of the resettlement database to be used for project monitoring and supervision. The census and the inventory of assets can be done separately. As each requires visits to all affected households, however, doing them together is generally more efficient. Where establishing ownership or length of residency is difficult, the census should be conducted as soon as possible, to determine a cut-off date for eligibility for entitlements. In such situations an immediate partial inventory, sufficient to establish the number and general size of structures and other assets to be taken, may be advisable to supplement the census. The precise attributes of structures and an inventory of remaining fixed assets (such as boreholes) acquired or affected can be determined later. The census needs to be undertaken as soon as possible to ensure accurate determination of eligibility for entitlement. The formats for the census and the asset inventory must be adapted to the specific context and informational requirements of the subproject. In any case, the format needs to be field-tested, to ensure that the questions and the phrasing of them elicit the required information. The usual practice is for enumerators to code information while the teams are in the field. This way, incomplete or obviously incorrect information can be corrected on repeat visits. The information is then sent to the project office for data entry and filing.

2. Once the final technical design of the subproject is available, the Detailed Measurement Survey (DMS) needs to be carried-out, and the DMS results are used for the RP updating.

### **2. Socioeconomic Survey (SES)**

3. The census and inventory are supplemented with data from socioeconomic surveys. The SES data and information are used to establish baseline information on household income, livelihood patterns, standards of living, and productive capacity. This baseline information constitutes a reference point against which income restoration and the results of other rehabilitation efforts can be measured lists other areas of socioeconomic analysis: land tenure and transfer systems; the patterns of social interaction in the affected communities; public infrastructure and social services that will be affected; and social and cultural characteristics of displaced communities. Interviews are conducted with a systematic sample and using uniform questionnaires. For some subproject under the BCI 2 that affects a limited number of people, everyone affected may be interviewed. For the significant involuntary resettlement subprojects, AP population can be sampled for the socioeconomic surveys. The sample should provide a sufficient number of cases for statistical analysis.

### **3. Replacement Costs Survey (RCS)**

4. Compensation is based on the principle of replacement cost. Replacement cost is the amount calculated before displacement which is needed to replace an affected asset without deduction for taxes and/or costs of transaction as follows:

- Productive Land (agricultural, aquaculture, garden and forest) based on market prices that reflect recent land sales, and in the absence of such recent sales, based on productive value;
- Residential land based on market prices that reflect recent land sales, and in the absence of such recent land sales, based on similar location attributes;
- Houses and other related structures based on current market prices of materials and labor without depreciation nor deductions for salvaged building materials;
- Annual crops equivalent to current market value of crops at the time of compensation;
- For perennial crops and trees, cash compensation at replacement cost is equivalent to current market value given the type, age and productive value (future production) at the time of compensation. Timber trees based on diameter at breast height at current market value.

5. The evaluation of replacement costs will be carried out based on information collected from both research and field work including surveys and data collection from people in the affected and adjacent areas, both those affected and those not affected.

6. Desk research will focus on relevant publications, decisions of Government authorities at national, provincial, city and district levels. However, these materials will play the supporting role only. As the work is aimed at obtaining reasonable replacement costs for different types of affected assets, market evidences are the

factors which most strongly base the formulation of these costs. Surveys with people in the affected area, both those, whose assets are affected by the project, and those whose assets are not, will produce reliable data for evaluation.

7. For land, the objective of evaluation is to determine the prices or rates that will enable APs to purchase the same type and quantity of land. The evaluation of compensation for the loss of land is based on its market value. Direct interviews with land-owners in the subproject area, including those whose land is affected and those whose land is not; and consultation with the land and real-estate agency service staff, the District Site Clearance and Resettlement committee officer, etc. are required. The information to collect include the recent land use rights transfers (buying/selling transactions) in the area; the price, at which owners are willing to sell their land; or/and price of the recent transaction; type of land (Non – Agriculture land, Agriculture land with different categories); and the government established rates for land.

8. For annual crops, the survey team needs to calculate the value of crops that are lost, the market price of the crops during last 3 years. For the data and information, focus grouped discussions with farmers to discuss the investment cost, production, yield and benefit for each crop type, interviews with people (affected and not affected) who owned the same crops in the locality, and interviews with agricultural experts, etc. are advisable.

9. For perennial trees, the information about production and benefit of their fruit tree during last 3 years and the market price of the trees are needed.

10. For structures, the survey is to determine whether the government regulated prices enable APs to rebuild their affected structures. The evaluation of compensation for affected structures is based on the principle of replacement cost. The information to base the evaluation will mainly be collected from direct interviews with parties involved, including owners of structures in the subproject site and the owner of similar structures in the region whose are not affected, local construction contractors specialized in residential building; owner of newly built houses.

## Appendix 5: Voluntary Contribution Consent Form

### Royal Government of Cambodia

[INSERT NAME] Province  
[INSERT NAME] District  
[INSERT NAME] Commune

### CERTIFICATE OF LAND TRANSFER

I, [INSERT NAME, AGE, NATIONALITY, OCCUPATION], with residence located in [INSERT NAME] village, [INSERT NAME] district, [INSERT NAME] province,

Certify that I have been previously informed by local authority of my right to entitle compensation for any loss of property (house, land and trees) that might be caused by BCI 2[INSERT IMPROVEMENT, I.E., WATER SUPPLY SYSTEM, ACCESS INFRASTRUCTURE, ETC...) in commune [INSERT NAME], district ([INSERT NAME]). I confirm that I voluntarily accept [INSERT TERMS FOR REPLACEMENT]. I also confirm that I do not request any compensation of loss of [INSERT OTHER LOSSES SUCH AS TREES STRUCTURES] and would request the local authority to consider this as my contribution to the Project.

Type of Loss	Area (sqm)	Number of Trees	Unit Rates	Total	Comment
Land					
<b>Total</b>					

Therefore, I prepare and sign this certificate for the proof of my decision.

[INSERT NAME] district  
[INSERT DATE]  
The owner of the land  
[INSERT NAME AND SIGN]

Witnesses:

1. [INSERT NAME]
2. [INSERT NAME]
3. [INSERT NAME OF IMO]

Certified by the Chief of the Village [INSERT NAME AND SIGN]

Certified by the Chief of the Commune [INSERT NAME AND SIGN]

The Chief of [INSERT NAME] district [INSERT NAME AND SIGN]