

# Updated Resettlement Framework

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Project Number: 46009  
January 2014

## The Kingdom of Cambodia's Proposed Additional Financing to Flood Damage Emergency Reconstruction Project

Prepared by: Ministry of Water Resources and Meteorology  
Ministry of Public Works and Transport  
Ministry of Rural Development

## CURRENCY EQUIVALENTS

(as of 14 February 2012)

Currency unit      –      riel/s (KR)

KR1.00      =      \$0.00024

\$1.00      =      KR4,026

## ABBREVIATIONS

ADB	–	Asian Development Bank
COI	–	corridor of impact
DDIS	–	detail design and implementation support
DMS	–	detail measurement survey
EMO	–	external monitoring organization
GAP	–	gender action plan
GRC	–	Grievance Redress Committee
IRC	–	Inter-ministerial Resettlement Committee
IOL	–	inventory of losses
MEF	–	Ministry of Economy and Finance
MOWRAM	–	Ministry of Water Resources and Meteorology
MPWT	–	Ministry of Public Works and Transport
MRD	–	Ministry of Rural Development
PCMU	–	Project Coordination and Monitoring Unit
PIU	–	Project Implementation Unit
PRSC	–	Provincial Resettlement Sub-committee
PRSC-WG	–	Provincial Resettlement Sub-Committee Working Group
RGC	–	Royal Government of Cambodia
ROW	–	rights-of-way
RCS	–	replacement cost survey
RD-MEF	–	Resettlement Department, Ministry of Economy and Finance
SES	–	socio economic survey
SPS	–	Safeguard Policy Statement

## WEIGHTS AND MEASURES

kilometer	–	km
Millimeter	–	mm
hectare	–	ha

## NOTE

In this report, "\$" refers to US dollars unless otherwise stated.

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## RESETTLEMENT FRAMEWORK

### I. INTRODUCTION

1. The Kingdom of Cambodia had experienced serious flooding in September and October 2013 due to flash floods from heavy rains and floods from rivers overflowing, especially in the northwestern provinces of Banteay Meanchey, Battambang, Pailin and Siem Reap where the water is receding slower than expected. The 2013 serious floods have damaged and destroyed agricultures, infrastructures, and have caused loss of life. National roads, provincial roads, rural roads, urban roads, bridges and irrigation systems have been cut off and serious damaged. Moreover, the recent flooding has damaged some road sections are ongoing constructed under the Flood Damaged Emergency Reconstruction Project (Loan 2852/Grant 0285-CAM). The Royal Government of Cambodia proposes ADB additional Project in extension of FDERP funded by the Asia Pacific Disaster Response Fund (APDRF)'s assistance. The Project will restore critical public and social infrastructure assets necessary to restore livelihood, access in project provinces that will secure the social infrastructure services against future flooding. The Project will have four project outputs:

(i) **National and provincial roads rehabilitation/improvement.** The Project will reconstruct flood damaged national and provincial roads in six provinces<sup>1</sup>. Five bridges (321 meters) along PR270 in Kampong Cham, PR156D in Banteay Meanchey, PR265F in Siem Reap, and PR2624 in Preah Vihear which were severely weakened by the floods will be replaced. In Kampong Cham, Banteay Meanchey, Battambang, Kampong Thom and Siem Reap provinces, 211.71 Kilometers (Km) of provincial roads will be repaired and upgraded. The works will be carried out in 3 stages. Temporary Stage 1 work has already been completed under the RGC funding to restore minimum function of the roads. Stage 2 is the most urgent work that needs to be fast-tracked with substantial works done during the 2014 dry season to secure functioning of the roads during the 2014 wet season. Stage 3 works will be prepared to commence after the 2014 wet season. In view of the urgency, five contract packages for the reconstruction of 2 bridges (1 bridge in Banteay Meanchey on PR156D, and 1 bridge in Kampong Cham on PR270) and three road subprojects (PR156D, PR264E, and PR264D) can be considered as Stage 2 subprojects.

(ii) **Rural roads rehabilitation/improvement.** The Project will reconstruct about 670 km of flood damaged rural roads in five provinces of Kampong Cham, Kampong Thom, Siem Reap, Prey Veng and Banteay Meanchey. Civil works of reconstruction will be carried out in three stages of which Stage 1, the RGC is restoring the damaged roads to passable condition through grading and filling damaged areas by January 2014. The Stage 2 would be for raising embankments and restoring structures with appropriate road profile and compaction such that they would not be washed away during the next rainy season of 2014. The Stage 3 would be paving the roads with a single seal.

. This output will carry out a demonstration exercise relating to labor intensive construction and maintenance of rural roads.

(iii) **Irrigation and flood control rehabilitation/improvement.** Under this output, about 13 flood damaged irrigation schemes will be repaired in at least 8 provinces, Kampong Cham, Kampong Thom, Siem Reap, Preah Vihear, Udon Meanchey, Banteay Meanchey, Pursat, and Battambang. Stage 1 works involved temporary measures after heavy flooding in 2013 mainly

<sup>1</sup>Battambang, Banteay Meanchey, Siem Reap, Kampong Thom, Kampong Cham, and Preah Vihear.

using sand bags and pumps to restore irrigation as far as possible (some of which were supported by the ADB Asia Pacific Disaster Response Fund grant). Stage 2 repairs will mostly involve actions for temporary measures to restore the use of canals/water reservoir embankments. Stage 3 covers works that require further detailed hydrological assessment and scheme operations planning to mitigate future risks, and this work will commence after the 2014 wet season.

(iv) **Project management and facilitation.** This output will support the executing agency to undertake overall oversight and management of the project. It will be supported by consultants to ensure that procedures are followed and that the implementation schedules are kept on track. This output will also provide consulting and capacity development inputs to link the restoration outputs under the project with support for flood management activities.

2. The Project will restore and re-establish use of flood damaged infrastructure. Restoration work is expected to be within existing facilities and rights-of-way (ROW) and no land acquisition is anticipated. Minimal or no involuntary resettlement impacts are also anticipated. This resettlement framework will guide the preparation of resettlement plans developed for roads (outputs 1 and 2) and irrigation (output 3) infrastructure subprojects during project implementation. Output 4 is not expected to have involuntary resettlement impacts. A separate indigenous peoples planning framework is not required, as the Project will not include subprojects that affect indigenous peoples.

3. This Resettlement Framework has been endorsed by the Inter-Ministerial Resettlement Committee (IRC) of the RGC, will be disclosed in ADB's website, and will be translated and disclosed in the websites of the 3 implementing agencies.

## II. OBJECTIVES, POLICY FRAMEWORK, AND ENTITLEMENTS

### A. Applicable Cambodian-Laws, Regulations, and Policies

#### 1. 1993 Constitution

4. The constitution of the Kingdom of Cambodia, Article 44 sets principle for land acquisition "All persons, individually or collectively, shall have the rights to own property. Only natural persons or legal entities of Khmer nationality shall have the rights to own land. Legal private ownership shall be protected by law. Expropriation of ownership from any person shall be exercised only in the public interest as provided for by law and shall require fair and just compensation in advance".

5. Articles 73 and 74 of the Constitution provide for special consideration and support to vulnerable people including mothers and children, the disabled and families of combatants who sacrificed their lives for the nation. Indigenous minorities however are not explicitly included in these two articles but included in the Land Law.

#### 2. 2001 Land Law

6. The 2001 Land Law governs land and property rights in Cambodia. Based on the provisions of the 1993 Constitution, it defines the regime of ownership of immovable properties, such as land, trees and fixed structures.

7. The rights and responsibilities of the RGC with respect to eminent domain are specified in the Land Law. The RGC can acquire private land for public purposes, but has to pay a fair

and just compensation in advance of the land acquisition. The Land Law, Article 5, states that "No person may be deprived of his ownership, unless it is in the public interest". An ownership deprivation shall be carried out in accordance with the forms and procedures provided by law and regulations and after the payment of fair and just compensation in advance." Other provisions of the Land Law that are relevant to land acquisition, compensation and resettlement include:

- i. Article 6: Legal possession as defined by the Law is the sole basis for ownership, and 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.
- ii. Article 7: Any regime of ownership of immovable property prior to 1979 shall not be recognized.
- iii. Articles 8 and 66: Only persons or legal entities of Khmer nationality are entitled to own land in Cambodia; or to buy or sell land.
- iv. Article 15: State public land includes, among other categories, any property a) that has a natural origin, such as forests, courses and banks of navigable and floatable rivers or natural lakes; b) that is made available for public use such as roads, tracks, oxcart ways, pathways, gardens, public parks and reserved land; or, c) that is allocated to render a public service, such as public schools, public hospitals or administrative buildings.
- v. Article 19: Persons that illegally occupy, possess or claim title to State public land cannot claim any compensation. This includes land established by the RGC as public ROWs for roads and railways. Moreover, failure to vacate illegally occupied land in a timely manner is subject to fines and/or imprisonment.
- vi. Article 26: Ownership of the lands is granted by the State to indigenous communities<sup>2</sup> as collective ownership, including all the rights and protections enjoyed by private owners. But the community does not have the right to dispose of any collective ownership that is State public property to any person or group. The exercise of collective ownership rights are the responsibility of the traditional authorities and decision-making mechanisms of the indigenous community, according to their customs and subject to laws such as the law on environmental protection.
- vii. Article 28: No authority outside the community may acquire any rights to immovable properties belonging to an indigenous community.
- viii. Article 30: Any person who, for no less than five years prior to the promulgation of this law, enjoyed peaceful, uncontested possession of immovable property that can lawfully be privately possessed, has the right to request a definitive title of ownership. In case the granting of a definitive title to ownership is subject to an opposition, the claimant has to prove that he himself fulfills the conditions of peaceful, uncontested possession for no less than five years over the contested immovable property or to prove that he purchased the immovable property from the original possessor or his legal beneficiary or from the person to whom the ownership was transferred, or from their successors.
- ix. Article 31: Any person who had been enjoying possession before this law came into force may be authorized by the competent authority, if such person fulfils all requirements to become an owner of the property, to extend his possession until he attains the legally prescribed period of five years, after which he will obtain a definitive title of ownership. The authorization to extend for the sufficient period of time cannot be denied by the competent authority if the possession is peaceful and uncontested.

<sup>2</sup> As per Article 23 of the Land Law, "An indigenous community is a group of people that resides in Cambodia whose members manifest ethnic, social, cultural and economic unity and who practice a traditional lifestyle, and who cultivate the lands in their possession according to the customary rules of collective use"

- x. However, Articles 29: In the scope of reconstituting ownership over immovable property in Cambodia after the period of crisis from 1975 to 1979, and with no subordination to the general rules of prescription related to ownership of immovable property, on an exceptional basis, possession of immovable property which was recognized since 1989 may constitute a right in rem over immovable property and may lead to the acquisition of ownership by the holder of the property, in accordance with the conditions set by this law. Any beginning of occupation for possession shall cease when this law comes into effect. And  
Article 34: After this law comes into force, any new occupant without title to an immovable property belonging to public bodies or private persons shall be considered as an illegal occupant and shall be subject to the penalties provided in Article 259 of this law.
- xi.
- xii. Articles 50 and 51: Landless people may apply for land for residential and subsistence farming purposes at no cost, as part of a social land concessions scheme. The concessionaire may obtain ownership of this land after fulfilling conditions set out in a separate Sub-Decree on Social Land Concessions.
- xiii. Articles 80-84: Acquisition of land through gifts is permitted with the following conditions: (i) the gift of immovable property is only effective if it is made in writing and registered with the Cadastral Registry Unit; (ii) once accepted, gifts of immovable property are irrevocable; and, (iii) the donor may retain the right of usufruct in the property, and the right of use and habitation of an immovable property.

### 3. Expropriation Law

8. The Expropriation Law, passed by the National Assembly on 29 December 2009 and promulgated by the King on 4 February 2010, contains 8 Chapters with 39 Articles. It provides clear procedures on acquiring private properties for national and public interests. Key Articles of the Law are listed below:

- i. Article 2: the law has the following purposes: (i) to ensure just and fair deprivation of a legal right to ownership of private property; (ii) to ensure prior just and fair compensation; (iii) to serve the public and national interests; and (iv) to develop public physical infrastructure.
- ii. Article 7: Only the State may carry out an expropriation for use in the public and national interests.
- iii. Article 8: the State shall buy any part of the immovable property remaining after the expropriation for fair and just compensation as proposed by the immovable property's owner and/or holder of real right to the immovable property who cannot live near the project area or cannot build a residence or conduct any business.
- iv. Article 12: an Expropriation Committee shall be established and headed by a representative from the Ministry of Economy and Finance (MEF) and composed of representatives from relevant ministries and institutions. The organization and functioning of the Expropriation Committee shall be determined by a Sub-Decree.
- v. 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 or replacement cost of the real property as of the date of the issuance of the Prakas on the expropriation project. The market value or replacement cost shall be determined by an independent commission or agent appointed by the expropriation committee.

#### 4. Other Relevant Laws and Regulations

9. In addition to the Land Law, there are also other Laws, Decrees, Sub-Decrees, regulations, and guidelines relevant to resettlement under the Project. The Sub-Decree on Social Concessions, enforced on 19 March 2003, provides legal basis for allocations of State private land for purposes of the alleviation of landlessness and poverty, including the replacement of land lost in the context of involuntary resettlement.

10. The private ownership of land was re-established in 1989, and confirmed in the 2001 Land Law (Article 4). Cambodians are able to register the land they occupy with the local Cadastral Administration Office, whereupon a certificate of land title is granted. Issuing land titles is a lengthy process and most offices have a major backlog of applications. People are given a receipt and until the official title deed is issued, this receipt is accepted as title for land purpose or sale.

11. The present legal status of land use in Cambodia can be classified as follows:
- i. Privately owned land with title: The owner has official title to land, and both owner and the Cadastral Administration Office have a copy of the deed.
  - ii. Privately owned land without title: The owner has made an application for title to land, and is waiting for the issuance of a title deed. The Cadastral Administration Office recognizes the owner.
  - iii. Land use rights certified by the Government: In this case, a receipt for long-term land use has been issued. This land use right is recognized by the Cadastral Administration Office.
  - iv. Lease land: The Government or private owners lease the land, usually for a short period. There is provision for the owner to reclaim land if it is needed for development.
  - v. Non-legal occupation: The user has no land use rights to State land that he occupies or uses. The Cadastral Administration Office does not recognize the use of this land.

12. Prakas No. 6, entitled "Measures to Crack Down on Anarchic Land Grabbing and Encroachments", sets ROW. In support of this Prakas, MEF on 6 April 2000 issued Decree No. 961 prohibiting compensation for structures and other assets located in the ROWs.

#### 5. ADB Safeguards Policy Statement

13. The objectives of the ADB Safeguard Policy Statement (ADB's SPS. 2009) are (a) to avoid impacts on people and the environment, where possible; (b) where avoidance is not possible, minimize, mitigate, or compensate for adverse project impacts on the environment and the affected people; and (c) help the executing agency strengthen its safeguard system. Towards this end, ADB resettlement policy includes the following principles:

- i. Screen the project early on to identify past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning through a survey and/or census of affected persons, including a gender analysis, specifically related to resettlement impacts and risks.
- ii. Improve, or at least restore, the livelihoods of all affected persons through (i) land-based resettlement strategies when affected livelihoods are land based where possible or cash compensation at replacement value for land when the loss of land does not undermine livelihoods, (ii) prompt replacement of assets with access to assets of equal or higher value, (iii) prompt compensation at full replacement cost for assets that cannot be

- restored, and (iv) additional revenues and services through benefit sharing schemes where possible.
- iii. Provide physically and economically affected persons with needed assistance, including the following: (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 resettled persons economically and socially into their host communities, and extension of project benefits to host communities; (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (iii) civic infrastructure and community services, as required.
  - iv. Improve the standards of living of the affected poor and other vulnerable groups, including women, to at least national minimum standards. In rural areas provide them with legal and affordable access to land and resources, and in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing.
  - v. Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement.
  - vi. Ensure that affected persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets.
  - vii. Prepare a resettlement plan elaborating on affected persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.
  - viii. Disclose a draft resettlement plan, including documentation of the consultation process in a timely manner, before project appraisal, in an acceptable place and a form and language(s) understandable to affected persons and other stakeholders. Disclose the final resettlement plan and its updates to affected persons and other stakeholders.
  - ix. Conceive and execute involuntary resettlement as part of a development project or program. Include the full costs of resettlement in the presentation of project's cost and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation.
  - x. Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout project implementation.
  - xi. Monitor and assess resettlement outcomes, their impacts on the standards of living of affected 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.

## **6. Resettlement Policies in ADB-Financed Projects**

14. In dealing with externally-financed projects, the Government has adapted on a project-by-project basis, the resettlement policies of donors. Projects supported by external agencies are governed by the resettlement policies of donors and relevant laws and government regulations not consistent with donor policies are waived. For this Project, principles in Section 5(b) will apply.

### **B. Screening and Classification**

15. During project preparation, the Project was classified by ADB as Category B with impacts that are not deemed significant. The subproject selection criteria excludes Category A subprojects or subprojects with significant involuntary resettlement impacts. To ensure



completion within the project period, subprojects which do not have land acquisition and involuntary resettlement impacts will be prioritized. Subprojects which affect indigenous peoples will also be excluded from the Project.

16. The subproject selection criteria minimizes land acquisition and involuntary resettlement. Any impacts noted during detailed design will be minimized by comparing technical design and construction method alternatives. Impacts, if any, will be related to access disruptions and impacts on assets that are on the edge of ROWs.

17. Following screening through the subproject selection criteria, the implementing agency will classify subprojects at the earliest stage of preparation when sufficient information is available for this purpose. The Project will adopt ADB's classification system to reflect the significance of a subproject's potential involuntary resettlement impacts. Subprojects will be classified into the following categories:

- i. Category A. A proposed subproject is likely to have significant involuntary resettlement impacts, 200 or more persons will be physically displaced from home, 200 or more persons lose 10% or more of their productive or income generating assets, or 200 or more persons experience a combination of both.
- ii. Category B. A proposed subproject includes involuntary resettlement impacts that are not deemed significant.
- iii. Category C. A proposed subproject has no involuntary resettlement impact.

18. Classification will be aided through the form in Appendix 1. The implementing agency will submit the classification of each subproject to the executing agency and ADB for review and approval. Category A subprojects will be excluded from the Project. Category A and B subprojects will also be excluded for Stage 2 subprojects. To comply with ADB's SPS—Category B subprojects require the preparation of a resettlement plan is prepared that is commensurate with the extent and degree of the impacts: the scope of physical and economic displacement and the vulnerability of the affected persons. The PIU (Project Implementation Unit) and Detailed Design and Implementation Support (DDIS) Consultants will prepared the draft resettlement plan. The outline of a resettlement plan is in Appendix 2.<sup>3</sup>Category C subprojects require no further action.

In cases where subprojects involve voluntary donation and no other land acquisition and involuntary resettlement impacts, the subproject will be classified as Category C, but the PIU will prepare a report to ADB (to be attached to the classification form) which will document that: (i) the subproject site is selected in full consultation with landowners and any non-titled 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 affected household does not exceed 5% of the total productive landholdings of the household; (iii) voluntary donations are linked directly to benefits for the affected household; (iv) any voluntary donation will be confirmed through written record and verified by an independent third party such as the external monitoring organization; (v) there is an adequate grievance process (vi) No affected household will be displaced from housing and severely affected; and (viii) No affected household is vulnerable. The template for voluntary donation is provided in Appendix 3. In cases where the subproject is classified as B and involves voluntary donation, the voluntary donation report will be attached to the resettlement plan.

<sup>3</sup> Further guidance on the preparation of an RP is in ADB. November 2012. "Involuntary Resettlement Safeguards: A Planning and Implementation Good Practice Sourcebook—Draft Working Document." Manila: ADB.

### III. SOCIOECONOMIC INFORMATION

#### A. Determining Resettlement Impacts

19. Socio-economic information of affected households will be obtained through a socio-economic survey (SES). The SES will serve as a baseline of affected household living conditions and will form part of the monitoring and evaluation data that will assess the extent to which the measures in resettlement plans are effective in mitigating land acquisition and resettlement impacts. The SES instrument will be developed by the Project Coordination and Monitoring Unit (PCMU) and the SES will be undertaken by PIUs.<sup>4</sup> The SES will be supplemented with consultations to cover the need for land acquisition and resettlement impacts, and the community's views on measures to mitigate the anticipated impacts, including preferred forms of compensation.

20. The potential impacts of the Project will be determined through an inventory of losses (IOL) and census of affected households, conducted in parallel with the SES, where all fixed assets (i.e., lands used for residence, commerce, agriculture including ponds; dwelling units; stalls and shops; miscellaneous structures such as fences, tombs, and wells; trees with commercial value; crops; etc.) located in the subproject construction area (e.g. the corridor of impact (COI) for transport infrastructure subprojects) will be identified, tagged, measured, their owners identified, and exact location recorded. Likewise, the severity of impact on the affected assets and the severity of impact to the livelihood and productive capacity of persons affected by such losses will be determined. Photographs of the affected assets with a placard indicating their location and owners will be taken. Information on the affected households, such as sources of livelihood, income level, and ownership of productive assets will also be gathered as part of the IOL. The PCMU will develop the IOL instrument and the IOL will be implemented by the PIUs. The cut-off-date for eligibility will be the announcement of the subproject and the IOL survey. Affected households will be informed of the cut-off-date in prior consultations and will be the information will be included in materials disclosed.

#### B. Updating Resettlement Plans

21. The draft resettlement plans will be updated after the completion of the detailed design for the subproject. The Inter-Ministerial Resettlement Committee (IRC) will conduct the detailed measurement survey (DMS) as part of updating the resettlement plan. The DMS will include 100% of affected households and will collect data required to verify the details of affected people for finalizing the resettlement plan, including details of land ownership, plot sizes, types of land use, number and types of trees and crops, types and conditions of affected structural buildings, land prices, affected livelihoods and the required restoration activities as well as associated costs for land for resettlement of displaced people and development costs.

22. A replacement cost survey (RCS) will be undertaken by a professional appraiser engaged by IRC. The RCS will determine current market prices for (i) agricultural, residential and commercial land; (ii) different types of structures; and, (iii) crops and trees. The RCS instrument will be developed by the PCMU. The RCS results will be the basis for estimating resettlement costs.

<sup>4</sup> Guidance on the conduct of an SES is in ADB. November 2012. "Involuntary Resettlement Safeguards: A Planning and Implementation Good Practice Sourcebook—Draft Working Document." Manila: ADB.

#### IV. CONSULTATION, PARTICIPATION, AND DISCLOSURE

##### A. Consultation and Participation

23. Participation provides for the occasion and the process by which stakeholders influence and become co-responsible for development initiatives and decisions that affect them. Through participation, the needs and priorities of the local population are known; the adverse social impacts of subprojects, including the corresponding mitigating measures, are collectively identified; and the commitment and feeling of ownership for subprojects is developed among affected households.

24. The public, especially affected households, the local governments and beneficiaries will be consulted and their opinions solicited, and will participate in the preparation, updating, and implementation of the resettlement plan. Table 2 summarizes the roles and responsibilities of the executing agency, implementing agencies, the local governments, and the affected households in the preparation, updating, and implementation of the resettlement plan.

**Table 2. Roles and Responsibilities**

<b>Project Process</b>	<b>Participatory Activities/Participants</b>	<b>Responsible Institution</b>
Preparation <u>Pre-feasibility/Feasibility</u>	Briefing of the provincial, district, commune, and village officials; and stakeholders about the Project, the resettlement policy, and the activities of the consultants	Project Implementation Unit (PIU) and Consultants
	Conduct of inventory of losses (IOL), preliminary inventory of affected persons, social impact assessment, and replacement cost study (RCS)	PIU and Consultants, assisted by commune/village officials, professional appraiser
	Discussion with the Resettlement Department, Ministry of Economy and Finance (RD/MEF) and Project Coordination and Monitoring Unit (PCMU)/PIUs about the proposed Project resettlement policy	PCMU, PIU, Consultants
	Initial disclosure meeting with affected households to discuss the results of the IOL and gather suggestions on how to minimize and mitigate impacts, and discuss about relocation options.	PIU and Consultants, assisted by commune/village officials
	Drafting of the resettlement plan and project information brochure <sup>5</sup> and submission to IRC and ADB for review and approval	PIU and Consultants
	Distribution of information leaflets to affected households, posting of summary resettlement plan at district and sub-district local government offices	PIU and Consultants

<sup>5</sup> The Public Information Brochure, written in Khmer, contains the following brief information: (i) Project background, specifically about civil works to be done; (ii) results of the IOL; (iii) entitlements due to the DPs/AHs; (iv) bases for computing compensation for affected assets; (v) schedule of delivery of entitlements and displacement; (vi) grievance redress mechanism; and (vii) contact persons at PIU.

Project Process	Participatory Activities/Participants	Responsible Institution
<b>Updating and Implementation</b>		
<u>Drafting/Finalization of Technical Design</u>	Set-up resettlement coordinating committee	IRC through RD-MEF
	Detail Measurement Survey (DMS), updating unit costs (as necessary)	IRC assisted by Consultants
	Second disclosure meeting/consultation with affected households to discuss results of DMS and discuss the resettlement policy, entitlements and relocation options	IRC assisted by Consultants
	Updating/revision of the resettlement plan and project information leaflet	PIU assisted by Consultants
	Submission of updated resettlement plan and project information leaflet to IRC for approval and endorsement to ADB	PCMU
	Distribution of the updated information leaflets to the affected households and posting of summary updated resettlement plan at district and commune offices	IRC and PIU
	Implementation of Updated resettlement plan	IRC and PIU
	Monitoring of resettlement plan implementation	PIU (internal) and RD-MEF (external) through external monitoring organization (EMO)

25. Survey teams will conduct consultations in the subproject areas prior to the IOL and SES activities. Among the issues to be discussed are (i) explaining to local officials and residents what the subproject is about; (ii) introducing the members of the survey team, the reasons for the survey and the schedule for the conduct of the same, including the policy on cut-off date for eligibility to Project entitlements; and, (iii) identifying the major subproject stakeholders in the districts and getting their views regarding the subproject, including their suggestions on how to avoid and minimize adverse impacts.

26. Following consultations during the IOL and SES, the resettlement survey team will hold a second round of consultations, specifically with affected households. The issues to be discussed includes (i) sharing results of IOL, such as information on the types and magnitude of impacts; (ii) basic resettlement principles to be used in the subproject, such as compensation at replacement cost, public participation, and grievance redress; and, (iii) obtaining affected household's views and suggestions regarding compensation, allowances and assistance, relocation of structures, grievance redress, and participation.

27. Consultations with affected households will continue during resettlement plan updating and resettlement plan implementation. Particular attention will be given to the poor and other vulnerable affected households. All consultations undertaken will be documented in draft and updated resettlement plans and in monitoring reports during resettlement plan implementation. This will include minutes of meetings, photos, and attendance sheets.

## **B. Disclosure**

28. Draft and updated resettlement plans will be disclosed to affected households by posting in key locations such as commune offices during public information meetings and dissemination of the public information brochure. Key information to be disclosed includes (i) relocation and rehabilitation options, (ii) entitlements, (iii) grievance procedures, (iv) schedule of delivery of assistance, and (v) displacement schedule. Translated copies of the resettlement plan will also be disseminated to each district and commune office within the subproject area and will be publically accessible. The resettlement plans (draft and update) will be endorsed by the Royal Government of Cambodia to ADB and uploaded in the implementing agency, and ADB's websites. Corrective action plans (if any) and resettlement monitoring reports will also be endorsed by the Government and uploaded on ADB's website. Social safeguards monitoring reports will also be uploaded on implementing agency and ADB's websites. Disclosure will follow ADB's Public Communication Policy, 2011.<sup>6</sup>

## **V. COMPENSATION, INCOME RESTORATION, AND RELOCATION**

29. Due to the different provisions of the Royal Government of Cambodia and ADB with respect to resettlement and compensation for project affected people, the Project has prepared this resettlement framework, laying out the purpose, principles, and procedures to be used in the planning, updating and implementation of resettlement for any subproject or component of the Project with resettlement impacts.

### **A. Objectives**

30. The overall objective of the project resettlement policy is to ensure that all people affected by the Project are able to maintain and, preferably, improve their pre-project living standards and income-earning capacity by providing compensation for the loss of physical and non-physical assets and, as required, other assistance and rehabilitation measures to reestablish affected livelihood.

### **B. Resettlement Principles**

31. In support of the resettlement policy objective, the following principles have been adopted for the Project:

- i. Acquisition of land and other assets, and resettlement of people will be avoided or minimized as much as possible by identifying possible alternative construction methodology during rehabilitation.
- ii. Affected households residing, working, doing business and/or cultivating land within the subproject impacted areas during the conduct of the IOL, to be validated or updated during the DMS, are entitled to be compensated. Compensation will be provided for lost assets, incomes and businesses at market prices, and depending on the severity of impact on their livelihood and income capacity affected people will be provided with

<sup>6</sup><http://beta.adb.org/documents/pcp-2011?ref=site/disclosure/publications>

- rehabilitation assistance to improve or restore their pre-project living standards, income-earning capacity and production levels.
- iii. Affected households will be eligible for compensation and rehabilitation assistance, irrespective of tenure status, social or economic standing and any such factors that may discriminate against achievement of the resettlement objectives. Lack of formal legal title or rights will not be a barrier to eligibility for compensation and assistance under the Project.
  - iv. Affected households in a particular subproject will be fully consulted and given the opportunity to participate in decisions that may have adverse impacts on their lives during detailed design, implementation, and operation of the subproject. Development of plans for the acquisition of land and other assets will be carried out in consultation with the affected households who will receive prior information of the compensation, relocation and other assistance available to them.
  - v. All acquisition of, or restriction on access to, resources owned or managed by the Affected households as common property, e.g., communal forest, communal farm, will be mitigated by arrangements that will ensure access of those Affected households to equivalent resources on a continuing basis.
  - vi. There will be no deductions in compensation payments for land, structures or other affected assets for salvage value, depreciation, taxes, stamp duties, fees or other payments.
  - vii. Shop owners and operators will be allowed to construct replacement for their stalls before demolishing the existing ones in order to minimize, if not avoid, loss of income arising from the disruption of business operation.
  - viii. If ownership over any affected asset is under dispute, the compensation for the assets will be held in a court designated bank until its lawful owner is decided by competent legal authorities.
  - ix. Affected households that lose only part of their physical assets will not be left with a portion that will be inadequate to sustain their current standard of living. The minimum size of remaining land and structures will be agreed during the resettlement planning process.
  - x. Temporarily affected land and common property infrastructure will be restored to pre-project conditions.
  - xi. Effective mechanisms for hearing and resolving grievances during the planning, updating, and implementation of the resettlement plan for any subproject will be established and made known to all affected person.
  - xii. Existing cultural and religious practices will be respected and, to the maximum extent possible, preserved.
  - xiii. Special measures will be incorporated in the each resettlement plan to protect socially and economically vulnerable groups at risk of impoverishment, such as women-headed households, disabled-headed households, landless households, children and elderly people without support structures, and people living in poverty. Appropriate assistance will be provided to help them improve their socio-economic status.
  - xiv. Adequate resources will be identified and committed during the preparation of the resettlement plan of any subproject. This includes adequate budgetary support fully committed and made available to cover the costs of land acquisition, compensation, resettlement and rehabilitation within the agreed implementation period for the subproject; and, adequate human resources for supervision, liaison and monitoring of land acquisition, resettlement and rehabilitation activities.
  - xv. Appropriate reporting, monitoring, and evaluation mechanisms will be established as part of the resettlement management system. Monitoring and evaluation of the land

- acquisition, resettlement, and rehabilitation processes and the final outcomes will be conducted by an independent external monitoring organization.
- xvi. The resettlement plan or an appropriate summary for any subproject will be translated into Khmer and, where necessary, other local languages and placed in the commune offices for the reference of affected households.
  - xvii. ADB will not approve any civil works contract to be financed from the loan proceeds for any given geographic location, subproject, component or section unless the Government has satisfactorily completed, for that given location, subproject, component or section, payment of compensation for affected assets and any relocation to new sites, in accordance with the approved resettlement plan. Rehabilitation measures must also be in place but not necessarily completed, as these may be ongoing activities.
  - xviii. Cash compensation or replacement land for affected households losing entire residential land that are covered with titles and other recognized proof of ownership, or home plot in a group relocation site or individual sites for landless affected households needing to move, will be made available ahead of implementation of civil works to allow the affected households sufficient lead time to reconstruct their houses.
  - xix. No demolition of assets and/or entry to properties will be done until the affected household is fully compensated and relocated.

### C. Entitlements

32. Consistent with Project-specific resettlement principles, policies on compensation and other entitlements are summarized in Table 3. Furthermore, compensation to be paid for affected assets will be based on the principle of replacement cost, which is the amount needed to replace an affected asset without deduction for taxes and/or costs of transaction before displacement and which is operationally defined as follows:

- i. Productive land (agricultural, ponds, and forest) based on replacement cost that reflect recent land sales, and in the absence of such recent sales, based on productive value;
- ii. Residential land based on replacement cost that reflect recent land sales, and in the absence of such recent land sales, based on similar location attributes;
- iii. Houses and other related structures based on replacement cost reflecting current market prices of materials and labor without depreciation nor deductions for salvaged building materials;
- iv. Annual crops equivalent to current market value of crops at the time of compensation;
- v. 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.
- vi. For temporary impacts, no compensation for land if returned to the legal owners, permissory and non-legal right users, and the land restored to pre-project condition within 3 months after use. If the land is not returned and restored to pre-project condition within 3 months, the affected person will receive compensation at replacement cost for the land. A penalty clause will be included in the contractor's contract to ensure that the cost of such compensation is recovered from the contractor.

**Table 1: Entitlement Matrix**

No.	Type of Loss/Impacts	Application	Eligible Persons	Entitlements
1.	Productive land	Marginal loss(i.e., land is	Owners with legal or	A. For the portion to be used

No.	Type of Loss/Impacts	Application	Eligible Persons	Entitlements
	(agricultural, fishpond, forest, etc.)	<p>still economically viable for use or meets the expected yield)</p> <p>This will be confirmed by the executing agency and concurred with by the affected household during the detailed measurement survey (DMS).</p>	<p>legalizable/ recognized right; and those covered by customary rights</p> <p>Users with lease or permissory right</p>	<p><u>temporarily during construction:</u></p> <ul style="list-style-type: none"> <li>▪ No compensation for land if returned to the legal owner and the land restored to pre-project condition within 3 months after use. If the land is not returned and restored to pre-project condition within 3 months, the affected person will receive compensation at replacement cost for the land. A penalty clause will be included in the contractor's contract to ensure that the cost of such compensation is recovered from the contractor.</li> <li>▪ Cash compensation at replacement cost for the loss of standing crops and trees.</li> <li>▪ Compensation for loss of net income from subsequent crops that cannot be planted within the duration of the temporary use of the land.</li> <li>▪ Affected household will be notified 1 month in advance of the actual date that the land will be temporarily used or affected by the subproject.</li> </ul> <p><u>B. For the portion that will be acquired permanently:</u></p> <ul style="list-style-type: none"> <li>▪ Cash compensation at replacement cost for the acquired portion of the land.</li> <li>▪ Cash compensation at replacement cost for the loss of standing crops and trees.</li> <li>▪ Affected household will be notified 1 month in advance of the actual date that the land will be acquired by the subproject.</li> </ul> <p><u>A. For the portion to be used temporarily during construction:</u></p> <ul style="list-style-type: none"> <li>▪ No compensation for loss of land use if returned to the lessee and the land restored to pre-project condition within 3 months after use. If the land is not returned and restored to pre-project condition within 3 months, the affected person will receive compensation at replacement cost for the subject land. A penalty clause will be included in the contractor's contract to ensure that the cost of such compensation is recovered from the contractor.</li> <li>▪ Cash compensation at replacement cost for the loss of standing crops and trees.</li> <li>▪ Compensation for loss of net income from subsequent crops that cannot be planted within the duration of the temporary use of the land and within the remaining lease/assigned period.</li> <li>▪ Affected household will be notified 1 month in advance of the actual date</li> </ul>



No.	Type of Loss/Impacts	Application	Eligible Persons	Entitlements
				<p>that the land will be temporarily used or affected by the subproject.</p> <p><u>B. For the portion that will be acquired permanently:</u></p> <ul style="list-style-type: none"> <li>▪ Cash compensation for loss of net income for the remaining leased/assigned period.</li> <li>▪ Cash compensation at replacement cost for the loss of standing crops and trees.</li> <li>▪ Affected household will be notified 3 months in advance of the actual date that the land will be acquired by the subproject.</li> </ul>
			Non-legal users	<p><u>A. For the portion to be used temporarily during construction:</u></p> <ul style="list-style-type: none"> <li>▪ No cash assistance for loss of land use if returned to original user and the land restored to pre-project condition within 3 months after use. If the land is not returned and restored to pre-project condition within 3 months, the affected person will receive cash assistance for permanent loss of land use equivalent to the net income from the affected land during the immediate past year multiplied by 2 years. A penalty clause will be included in the contractor's contract to ensure that the cost of such compensation is recovered from the contractor.</li> <li>▪ Cash compensation at replacement cost for the loss of standing crops and trees.</li> <li>▪ Compensation for loss of net income from subsequent crops that cannot be planted within the duration of the temporary use of the land.</li> <li>▪ Affected household will be notified 1 month in advance of the actual date that the land will be temporarily used or affected by the subproject.</li> </ul> <p><u>B. For the portion that will be acquired permanently by the Project:</u></p> <ul style="list-style-type: none"> <li>▪ Cash assistance for permanent loss of land use equivalent to the net income from the affected land during the immediate past year multiplied by 2 years.</li> <li>▪ Cash compensation for the loss of standing crops and trees at replacement cost.</li> <li>▪ Affected household will be notified 3 months in advance of the actual date that the land will be temporarily used or affected by the subproject.</li> </ul>
		Severe loss (i.e., land no longer viable for continued use or does not meet the expected	Owners with legal or legalizable/recognized right; and those covered by	<ul style="list-style-type: none"> <li>▪ Cash compensation at replacement cost for the entire land, or land-for-land of equivalent productive value with secure tenure, and acceptable to the</li> </ul>

No.	Type of Loss/Impacts	Application	Eligible Persons	Entitlements
		<p>yield, therefore the entire property has to be acquired).</p> <p>This will be confirmed by the executing agency and concurred with by the affected household during the detailed measurement survey.</p>	<p>customary rights</p> <p>Users with lease or permissory right</p> <p>Non-legal users</p>	<p>affected household.</p> <ul style="list-style-type: none"> <li>▪ Cash compensation at replacement cost for the loss of standing crops and trees.</li> <li>▪ Entitled to take part in the income restoration program.</li> <li>▪ If the loss is equivalent to 10% or more of the total productive assets of the affected household, see Item 7 below.</li> <li>▪ Affected household will be notified 3 months in advance of the actual date that the land will be acquired by the subproject.</li> </ul> <ul style="list-style-type: none"> <li>▪ Cash compensation for loss of net income from subsequent crops that cannot be planted within the remaining lease/assigned period.</li> <li>▪ Cash compensation at replacement cost for the loss of standing crops and trees.</li> <li>▪ Entitled to take part in the income restoration program.</li> <li>▪ If the loss is equivalent to 10% or more of the total productive assets of the affected household, see Item 7 below.</li> <li>▪ affected household will be notified 3 months in advance of the actual date that the land will be acquired by the subproject.</li> </ul> <ul style="list-style-type: none"> <li>▪ Cash assistance for permanent loss of land use equivalent to the net income from the affected land during the immediate past year multiplied by 4 years. Cash compensation at replacement cost for the loss of standing crops and trees.</li> <li>▪ Entitled to take part in the income restoration program.</li> <li>▪ If the loss is equivalent to 10% or more of the total productive assets of the affected household, see Item 7 below.</li> <li>▪ Affected household will be notified 3 months in advance of the actual date that the land will be acquired by the subproject.</li> </ul>
2.	Residential / commercial land	<p><u>Marginal loss</u>(i.e., land is still economically viable for use or meets the expected personal yield)</p> <p>This will be confirmed by the executing agency and concurred with by the affected household during the detailed measurement survey.</p>	Owners with legal or legalizable/ recognized right; and those covered by customary rights	<p><u>A. For the portion to be used temporarily during construction:</u></p> <ul style="list-style-type: none"> <li>▪ Cash rental to be negotiated with the affected household.</li> <li>▪ Restoration of the land within 3 months after use. If the land is not returned and restored to pre-project condition within 3 months, the affected household will receive compensation at replacement cost for the subject land. A penalty clause will be included in the contractor's contract to ensure that the</li> </ul>

No.	Type of Loss/Impacts	Application	Eligible Persons	Entitlements
				<p>cost of such compensation is recovered from the contractor.</p> <ul style="list-style-type: none"> <li>▪ For affected non-land assets, see Items 3-5 below.</li> <li>▪ Affected household will be notified 1 month in advance of the actual date that the land will be acquired by the subproject.</li> </ul> <p><u>B. For the portion that will be acquired permanently:</u></p> <ul style="list-style-type: none"> <li>▪ Cash compensation at replacement cost.</li> <li>▪ For affected non-land assets, see Items 3-5 below.</li> </ul>
			Non-legal users	<ul style="list-style-type: none"> <li>▪ No cash assistance or compensation for land, except affected properties on the land.</li> <li>▪ For affected non-land assets, see Items 3-5 below.</li> </ul>
		<p><u>Severe loss</u> (i.e., land no longer viable for continued use; the entire property has to be acquired).</p> <p>This will be confirmed by the Provincial Resettlement Sub-committee (PRSC) and concurred with by the affected household during DMS</p>	Owners with legal or legalizable/ recognized right; and those covered by customary rights	<ul style="list-style-type: none"> <li>▪ Cash compensation at replacement cost for the entire land, or land-for-land of similar attributes with secure tenure and acceptable to the affected household.</li> <li>▪ For affected non-land assets, see Items 3-5 below</li> <li>▪ For allowances due to relocation of house, see Item 9 below.</li> <li>▪ Affected household to be notified at least 3 months in advance of the date the land will actually be acquired by the Project.</li> </ul>
			Non-legal users	<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> <li>▪ For allowances due to relocation of house, see Item 9 below.</li> <li>▪ Affected household to be notified at least 3 months in advance of the date the land will actually be acquired by the Project.</li> </ul>
3.	House and shops	<p><u>Marginal impact</u>(i.e., unaffected portion of the house is still viable for use and no relocation required)</p> <p>This will be confirmed by the executing agency and concurred with by the affected household during the DMS</p>	Owners of the structures with or without acceptable proof of ownership over the land; with or without building permit	<ul style="list-style-type: none"> <li>▪ Cash compensation at replacement cost for the affected portion.</li> <li>▪ Repair allowance equivalent to not less than 20% of replacement cost of the affected portion, or equivalent to the actual cost of repair.</li> </ul>
		<p><u>Severe impact</u>(i.e., house is no longer viable for continued use and the entire structure is to be acquired)</p>	Owners of the structures with or without acceptable proof of ownership over the land; with or	<ul style="list-style-type: none"> <li>▪ Cash compensation at replacement cost for the entire structure.</li> <li>▪ For allowances see Item 8 for shops and Item 9 for houses below.</li> </ul>

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No.	Type of Loss/Impacts	Application	Eligible Persons	Entitlements
		This will be confirmed by the executing agency and concurred with by the affected household during the DMS	without building permit	
4.	Secondary structures (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	▪ Cash compensation at replacement cost
5.	Crops and trees	Loss of, or damage to, assets	Owners regardless of tenure status	▪ Cash compensation at replacement cost
6.	Public facilities, common property structures and facilities	Loss of, or damage to, assets	Owners	▪ Cash compensation at replacement cost to restore the affected facilities.
7.	Loss of income / livelihood due to loss of productive land	Loss of 10% or more of total productive land	Affected household losing productive land regardless of tenure status	▪ One time assistance allowance of \$ 200 per household.
8.	Loss of income/ livelihood due to disruption of business or employment	<u>Marginal impact</u> (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	▪ One time assistance allowance of \$ 50 per household
		<u>Severe impacts</u> (i.e., disruption of business due to relocation of shop; and disruption of employment for more than 3 months)	Shop owners (regardless of tenure status) and employees/laborers of affected assets	▪ Materials transport allowance of \$20/shop if relocating in the same village; \$40/shop if relocating elsewhere in the commune or district. ▪ One time assistance allowance of \$ 100 per household
9.	Impacts on houses that require relocation	Severe impacts on houses	Relocating affected households regardless of tenure status	▪ Materials transport allowance of \$60/house if relocating in the same village; \$70/house if relocating elsewhere in the commune or district. ▪ One time assistance allowance of \$ 200 per household for those who will move to another plot of land and \$100 for those who will move within their plot of land.
10.	Higher risks of impoverishment /hardship due to loss of resource base	Loss of land and non-land assets	Affected vulnerable groups regardless of severity of impacts	▪ One time assistance allowance of \$ 200 per household to cover for additional human resources needed to help them, rebuild their houses, and re-establish their livelihood.

#### D. Income Restoration

33. For vulnerable groups and severely affected persons losing 10% or more of their productive assets and livelihoods regardless of tenure status, income restoration programs will be designed. The income restoration program will be designed in a participatory manner during

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the updating of the resettlement plan 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.

#### **E. Eligibility**

34. Only those affected households (i.e., person or persons) confirmed to be residing in, doing business, or cultivating land, or having rights over resources within the subproject right-of-way (ROW) or land to be acquired or used for the subproject during the conduct of the inventory of losses (IOL) and census of affected households (the cut-off date), to be validated and confirmed later during the detailed measurement survey (DMS), are eligible to compensation for lost assets and for other assistance as described in the preceding section.

#### **F. Gender**

35. A gender action plan (GAP) has been prepared for the Project and subprojects will be prepared and implemented in accordance with the GAP. Consistent with the GAP, resettlement planning and implementation will ensure that women, as members of the affected households, are adequately considered when they are physically or economically displaced by subprojects. They will be given equal opportunity for participation in public consultations and to ensure gender-sensitive and culturally responsive measures, the executing agency and the implementing agencies will adopt suitable strategies to ensure the active involvement of women consistent with the GAP.

### **VI. GRIEVANCE REDRESS MECHANISMS**

36. The objective the grievance redress mechanism 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. A well-defined grievance redress and resolution mechanism will be established to resolve grievances and complaints in a timely and satisfactory manner. All affected persons 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:

37. First stage: Complaints and grievances will be provided verbally or in writing to the village chief, commune chief, IRC working group or PIU staff. The receiving agent will provide immediate written confirmation of receiving the complaint. If after 15 days the complainant does not hear from the village and commune chiefs, IRC working group or PIU staff, or if he/she is not satisfied with the decision taken in the first stage, the complaint may be brought to the District Office.

38. Second stage: The District 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 District Office will bring the case to the Provincial Grievance Redress Committee (PGRC).

39. Third stage: The PGRC meets with the aggrieved party and tries to resolve the situation. Within 30 days of the submission of the grievance, the Committee will make a written decision and submit copies to the executing agency (including IRC) and implementing agencies.

40. Fourth stage: If the aggrieved affected household does not hear from the PGRC or is not satisfied, he/she can bring the case to Municipal/Provincial Court. The Court will make a written

decision and submit copies to the executing agency and implementing agencies. If any party is still unsatisfied with the Municipal/Provincial Court judgment, he/she can bring the case to a higher-level court.

41. Safeguard monitoring reports will include the following aspects pertaining to progress on grievances: (i) number of cases registered with the Grievance Redress Committee (GRC), level of jurisdiction (first, second, and third tiers), number of hearings held, decisions made, and the status of pending cases; and (ii) lists of cases in process and already decided upon may be prepared with details such as name, ID with unique serial number, date of notice, date of application, date of hearing, decisions, remarks, actions taken to resolve issues, and status of grievance (i.e. open, closed, pending).

42. All costs involved in resolving the complaints (meetings, consultations, communication and reporting/information dissemination) will be borne by the PCMU.

43. ADB's Accountability Mechanism<sup>7</sup> will also be explained to affected households.

## **VII. INSTITUTIONAL ARRANGEMENTS AND IMPLEMENTATION**

### **A. Project Coordination and Management Unit (PCMU)**

44. The Ministry of Economy and Finance (MEF) is the executing agency for the Project. A Project Coordination and Management Unit (PCMU) has been formed at the executing agency. Through the PCMU, IRC will coordinate social safeguards planning and implementation and ensure that the resettlement framework is followed during subproject implementation.

### **B. Project Implement Units (PIU)**

45. Ministry of Public Works and Transport (MPWT), Ministry of Rural Development (MRD) and Ministry of Water Resources and Meteorology (MOWRAM) are the implementing agencies for the Project. Three PIUs have been formed in the implementing agencies. The PIUs will be assisted by detail design and implementation support (DDIS) Consultants which will include Resettlement Specialists engaged during project implementation.

46. The PIU will work closely with the IRC and the Resettlement Department at the Ministry of Economy and Finance (RD-MEF). Its tasks include the following:

- a. Undertake involuntary resettlement screening and classification of subprojects for submission to IRC and ADB;
- b. Prepare the RP and submit to IRC and ADB for review;
- c. Secure the approval of the resettlement plan from IRC and concurrence from ADB;
- d. Secure prior approval by IRC and concurrence from ADB for any variations in approved resettlement plans;
- e. Secure the data base of affected households and assets gathered during the preparation and updating of the resettlement plan;

<sup>7</sup><http://beta.adb.org/site/accountability-mechanism/main>

- f. Ensure all government requirements are complied with;
- g. Monitor and prepare progress reports on resettlement plan implementation.

### **C. IRC and RD-MEF**

47. The IRC is composed of representatives from concerned line ministries, including MPWT, MOWRAM, MRD, Ministry of Land Management, Urban Planning and Construction (MLMUC), and the Governors or Deputy Governors of project provinces.

48. The IRC will function as a quasi-regulatory body, ensuring that funds for resettlement are spent properly and that resettlement plans are carried out as intended. The technical arm of the IRC is RD-MEF. The RD-MEF will assist IRC in the following tasks:

- a. Review and approve resettlement plans, ensuring that the resettlement plans are consistent with ADB's 2009 Safeguard Policy Statement (SPS), the resettlement framework, and the loan agreement;
- b. Endorse resettlement plans to ADB for review and concurrence;
- c. Establish or convene the Provincial Resettlement Sub-Committee (PRSC) and its Working Group (WG);
- d. Orient, as needed, the PRSC and its working group (PRSC-WG) on their tasks relative to developing, updating, and implementing resettlement plans;
- e. Secure from the national treasury the budget for carrying out resettlement plans, ensuring that funds are available in a timely manner and in sufficient amounts;
- f. Approve all disbursements connected with the implementation of the resettlement plans, such as payment of compensation and other entitlements, acquisition and preparation of replacement plots, operational expenses of personnel, etc.;
- g. Ensure that funds for resettlement are spent judiciously; and
- h. With assistance from an independent organization, monitor the implementation of the resettlement plan, ensuring that this is carried out in compliance with the project resettlement principles, the resettlement framework, and with loan agreement.

### **D. Provincial Resettlement Sub-committee (PRCS)**

49. PRSCs at the provincial level will be established, headed by the Provincial Deputy Governor. Its provincial department directors of line ministries represented in the IRC, and chiefs of the districts and communes of project infrastructures.

50. The technical arm of the PRSC is the Working Groups (PRSC-WGs). Each PRSC-WG is headed by the Director (or a representative) of the Provincial Department of the implementing agency. The regular members of the PRSC-WG come from the Provincial Government, Provincial Department of Economy and Finance (PDEF), Provincial Department of the implementing agency, and the Ministry of Interior. The PRSC-WGs have counterparts at the district level composed of personnel from various line agencies.

51. In an effort to make the whole process of resettlement effective, participatory and transparent, the chiefs of the affected communes and villages, and a male and female

representative each of the affected persons in affected communes will seat in the district RSC-WG in matters concerning their respective areas of jurisdiction.

52. The PRSC, through the provincial and district working groups, will have the following functions:

- a. Facilitate a sustained public information campaign, ensuring that the public, especially the affected households, are updated on any developments regarding the Project and resettlement activities;
- b. Lead the DMS and updated census of affected persons, including the updating of the rates used in calculating compensation and other entitlements to reflect prevailing market rates at the time of compensation;
- c. Lead the selection, acquisition, and preparation of replacement plots, if required including the preparation of a coordinated schedule of delivery of compensation and other entitlements, the relocation of people, harvesting of standing crops, and the start of civil works in a particular section of the subproject sections;
- d. Lead the delivery of compensation and other entitlements to the affected households;
- e. Receive and act on the complaints and grievances of affected households in accordance with the project resettlement principles and the resettlement framework; and
- f. Maintain a record of all public meetings, grievances, and actions taken to address complaints and grievances.

#### **E. Detailed Design and Implementation Support (DDIS) Consultants**

53. The DDIS, together with the PIU and the PRSC-WG, will assist in developing and updating resettlement plans through the conduct of the DMS in a participatory and transparent way and consistent with the project resettlement principles and the resettlement framework. Once approved by the IRC and the implementing agency and reviewed and concurred by ADB, the DDIS consultants will provide technical advice in the implementation of the approved resettlement plan. The DDIS consultants will likewise provide capacity-building orientation and skills training, as needed, to concerned personnel of the PCMU, the PIU, and the Provincial and District Working Groups.

54. Together with the PCMU and PIU, the DDIS consultants will supervise civil works activities to ensure that the contractors adhere with the terms of their contract relative to avoiding and/or minimizing resettlement impacts, in addition to ensuring that contractors provide the necessary compensation and/or assistance to the affected households prior to and/or during construction activities. The DDIS consultants will assist the PIU in regular monitoring of resettlement plan implementation.

### **VIII. BUDGET AND FINANCING**

55. The costs of resettlement for subprojects will be calculated based on (i) the IOL and the DMS, (ii) the entitlements set out in the entitlement matrix of this resettlement framework, and (iii) the RCS. A contingency of 20% will be included in these cost estimates to be used as required during implementation of the resettlement plan. Major items in estimating resettlement costs and cost items are in Appendix 4. All costs for subproject resettlement, including



compensation and allowances, operation and administration costs, surveys, monitoring and reporting, and income restoration will be financed by the Government as counterpart fund. MEF will provide the budget directly to the IRC and the IRC will disburse the fund to PRSCs for payments of compensation and allowances to affected households.

#### **IX. MONITORING AND REPORTING**

56. The PIU through the DDIS consultants will conduct regular monitoring and evaluation of the updating and implementation of the resettlement plan. Monitoring and evaluation is intended to help ensure that the resettlement plan is prepared and implemented according to the resettlement framework.

57. The following key indicators will be monitored periodically by IRC through the PCMU (further suggested monitoring indicators are in Appendix 5:

- i. Compensation and entitlements are computed at rates and procedures as provided in the approved resettlement plan;
- ii. Affected households are paid as per agreement with Project authorities;
- iii. Public information, public consultation and grievance redress procedures are followed as described in the approved resettlement plan;
- iv. Public facilities and infrastructure affected by the Project are restored promptly; and,
- v. The transition between resettlement and civil works is smooth.

58. The IRC will engage an external monitoring organization (EMO) as the Project's external monitor who will carry out external monitoring and post-implementation evaluation. Suggested indicators for verification by the external monitoring agency are in Appendix 6. The IRC will prepare the terms of reference (TOR) for this purpose. The TOR of the EMO and the selection of the monitor will require the prior consent of ADB. The EMO will provide the executing agency and ADB a copy of its semi-annual monitoring reports. The EMO will likewise conduct a Post-resettlement plan Implementation Evaluation Study one (1) year following the completion of resettlement.

**APPENDIX 1: Involuntary Resettlement Impact Categorization Checklist**

Probable Involuntary Resettlement Effects	Yes	No	Not Known	Remarks
<b>Involuntary Acquisition of Land</b>				
1. Will there be land acquisition?				
2. Is the site for land acquisition known?				
3. Is the ownership status and current usage of land to be acquired known?				
4. Will easement be utilized within an existing Right of Way (ROW)?				
5. Will there be loss of shelter and residential land due to land acquisition?				
6. Will there be loss of agricultural and other productive assets due to land acquisition?				
7. Will there be losses of crops, trees, and fixed assets due to land acquisition?				
8. Will there be loss of businesses or enterprises due to land acquisition?				
9. Will there be loss of income sources and means of livelihoods due to land acquisition?				
<b>Involuntary restrictions on land use or on access to legally designated parks and protected areas</b>				
10. Will people lose access to natural resources, communal facilities and services?				
11. If land use is changed, will it have an adverse impact on social and economic activities?				
12. Will access to land and resources owned communally or by the state be restricted?				
<b>Information on Displaced Persons:</b>				
Any estimate of the likely number of persons that will be displaced by the Project?				[ ] No [ ] Yes
If yes, approximately how many?				
Are any of them poor, female-heads of households, or vulnerable to poverty risks?				[ ] No [ ] Yes
Are any displaced persons from indigenous or ethnic minority groups?				[ ] No [ ] Yes

**Note:** Subproject description; subproject area maps; maps identifying structures against alignments, corridors-of-impact, rights-of-way, and subproject infrastructure; photos; and other relevant materials should be attached.

## **APPENDIX 2: OUTLINE OF A RESETTLEMENT PLAN**

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**

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

### **B. Project Description**

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**

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**

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 ethnic minorities, 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**

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**

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**

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**

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**

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;

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- (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**

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**

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**

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 non-government organizations, 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**

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**

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.

20/11/2011