

Resettlement Plan

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Kingdom of Cambodia: Greater Mekong Subregion
Tourism Infrastructure for Inclusive Growth Project

Kep Crab Market Environmental Improvements

Prepared by the Ministry of Tourism, Cambodia, for the Asian Development Bank.

CURRENCY EQUIVALENTS (as of 1 May 2014)

Currency unit	=	Riel (KR)
KR1.00	=	\$0.00025
\$1.00	=	KR4,001

ABBREVIATIONS

ADB	–	Asian Development Bank
AH	–	affected household
DBST	–	double bituminous surface treatment
DMS	–	detailed measurement survey
DOT	–	Department of Tourism
DP	–	displaced person
DRC	–	District Resettlement Committee
GMS	–	Greater Mekong Subregion
IOL	–	inventory of losses
IRC	–	Inter-Ministerial Resettlement Committee
MEF	–	Ministry of Economy and Finance
MOT	–	Ministry of Tourism
NGO		nongovernment organization
PCU	–	project coordination unit
PIB	–	public information booklet
PPTA	–	project preparatory technical assistance
PIU	–	project implementation unit
PRSC	–	Provincial Resettlement Sub-Committee
RC	–	resettlement committee
RGC	–	Royal Government of Cambodia
RCS	–	replacement cost survey
RP	–	resettlement plan
SES	–	socioeconomic survey

WEIGHTS AND MEASURES

km	kilometer
kg	kilogram
ha	hectare
m	meter

DEFINITION OF TERMS

Affected Household (AH)/Affected person (AP)	- In the case of affected household, it includes all members residing under one roof and operating as a single economic unit, who are adversely affected by a project or any of its components.
Cut-off date	- This refers to the date prior to which the occupation or use of the project area makes residents/users of the same eligible to be categorised as affected people. Persons not covered in the census are not eligible for compensation and other entitlements, unless they can show proof that (i) they have been inadvertently missed out during the census and the inventory of losses (IOL) in the case of RPs prepared during feasibility studies; or (ii) they have lawfully acquired the affected assets following completion of the census and the IOL and prior to the conduct of the detailed measurement survey (DMS).
Displaced Persons	- In the context of involuntary resettlement, displaced people (DP) are those who are physically displaced (relocation, loss of residential land, or loss of shelter) and/or economically displaced (loss of land, assets, access to assets, income sources, or means of livelihood) as a result of (i) involuntary expropriation of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.
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 AHs earlier done during RP preparation. The final cost of resettlement can be determined following completion of the DMS.
Entitlement	- Refers to a range of measures comprising compensation, income restoration support, transfer assistance, income substitution, relocation support, etc. which are due to the AHs, depending on the type and severity of their losses, to restore their economic and social base.
Host community	- Means the community already in residence at a proposed resettlement or relocation site.
Income restoration program	- This is the re-establishment of sources of income and livelihood of the affected households. It is 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 training need assessment.
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 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 affected persons 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 AHs 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 pre-project living standards and quality of life.
- Relocation - This is the physical relocation of an affected household from their pre-project place of residence and/or business.
- Replacement cost - The amount needed to replace an affected asset at prevailing market rates net of transaction costs such as administrative charges, taxes, registration and titling costs. In the case of structures, replacement cost refers to current cost of materials (no depreciation) and labor cost without deduction for salvaged materials.
- 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 affected persons' 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 which will (i) be physically displaced from housing, or (ii) lose 10% or more of their productive assets (income generating).
- 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 people or ethnic minorities.

NOTES

- (i) The fiscal year (FY) of the Government of Cambodia ends on 31 December.
- (ii) In this report, "\$" refers to US dollars.

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Executive Summary

1. Project and Subproject Description

The expected outcome of the Greater Mekong Subregion (GMS) Tourism Infrastructure for Inclusive Growth Project (the project) is that increased international tourism receipts will benefit people living in targeted segments of the GMS Southern Coastal Corridor in Cambodia. The project outputs are: (i) improved last-mile tourism access infrastructure; (ii) improved environmental services in cross-border tourism centers; (iii) strengthened institutional capacity to promote inclusive tourism growth; and (iv) effective project implementation and knowledge management.

The provincial Government of Kep Province has endorsed the Kep Crab Market Environmental Improvements subproject to be included for investment support under the project:

2. Resettlement Impacts

The Project Preparatory Technical Assistance (PPTA)¹ undertook an inventory of losses in July and September 2013 and identified the following project activities have resettlement impacts:

- **Kep Crab Market Environmental Improvements.** The improvements to the wastewater treatment system at Kep Crab Market will be undertaken so as to avoid closure of the entire market at any point in time and will be done during the low-season to reduce economic disruption. During the connection of their septic tanks to the anaerobic baffle reactor tanks that will treat wastewater, 28 building owners will experience minor impacts on their structure and 33 restaurant operators will experience a period of closure (estimated at 3 days). Construction during the weekend, which is the busy period of the crab market, will be avoided. The 33 restaurant operators have 119 additional family members for a total of 152 affected persons. The businesses employ a total of 10 men and 44 women as part-time workers mainly for weekends and peak periods. The employees are not expected to experience any loss of employment or loss of income from the subproject activities due to the temporary nature of the civil works and related impacts.

3. Legal Framework

This Resettlement Plan (RP) is developed according to the laws and decrees of the Government of Cambodia and Asian Development Bank's (ADB's) policies. These policies include ADB's Safeguard Policy Statement (SPS) 2009 and the Royal Government of Cambodia's (RGC) Laws, including the Land Law 2001 and the Law on Expropriation 2010.

4. Entitlements

The main entitlements relate to construction works to dismantle and repair affected floors of 28 affected households (AH), and compensation for loss of business income at the Kep Crab Market (33 AH). The full entitlements are set out in the entitlement matrix. Entitlements cover all compensation estimated in the Inventory of Losses (IOL) taken at preliminary design stage. During the project implementation, a Detailed Measurement Survey (DMS) will update the list of affected persons and assets. The entitlement matrix covering other types of impacts will be applied as required.

5. Resettlement Budget

The total cost of resettlement is estimated at \$11,028. Of this total \$4,950 is the estimated direct cost of compensation for business losses, \$4,240 is the implementation cost, and \$1,838

¹ TA 8233-REG: Preparing the GMS Tourism Infrastructure for Inclusive Growth Project

(20%) has been allocated for contingency. The budget will be updated at the time of the DMS/consultation with AHs. The budget will be updated at the time of the DMS. The Royal Government of Cambodia will cover these costs in the resettlement budget. The cost for dismantling and repair of the floors to connect toilets and sink drain pipes (sewerage and kitchen sullage/grey-water) at the Crab Market to the anaerobic baffled reactor (ABR) wastewater treatment system will be incorporated into the civil works contract, to be financed by loan proceeds.

6. Institutional Arrangements

The Ministry of Tourism (MOT), as the project's executing agency and will oversee all project activities including RPs. MOT will establish a Project Coordination Unit (PCU) that will assure coordination of the implementation of this resettlement plan. MOT and the PCU will coordinate closely with the IRC and IRC Working Group (IRC-WG) on all matters of involuntary resettlement, working closely with the Resettlement Department of the MEF (RD-MEF) to prepare, and update the RP.

The Kep Provincial Department of Tourism (DOT) will establish a PIU with a focal person for resettlement. The PIU will be a member of the Provincial Resettlement Sub-Committee (PRSC) and have its staff as members of the PRSC working group. The PIU will support the PRSC to establish a PRSC-Working Group for this project and facilitate its activities including holding consultations, conducting the DMS with support from implementing consultants hired by the PCU, verifying rates through a Replacement Cost Survey (RCS), and disbursing funds.

7. Monitoring

The Project Coordination Unit (PCU) in MOT will be responsible for overseeing the formation, function, and activities of the implementing agencies, and through quarterly monitoring reports, summarize progress including the status of implementation of the RP. The internal monitoring will be done by the PCU and PIUs in provincial DOTs with support from the implementation support consultants. The low number of affected households covered by this RP does not warrant the engagement of an external monitor. This provision can be reassessed at the time of detail design if the number of AH increases to 200 or more persons affected by physical displacement or loss of 10% or more of their total productive (income-generating) assets.

The internal monitoring process will ensure that resettlement institutions are well functioning during the course of project implementation, and that the resettlement activities are undertaken in accordance with the policies and implementation schedule described in the RP. All monitoring data will be collected and analyzed to ensure sex and ethnic disaggregation.

I. Project Description

1. The Greater Mekong Subregion (GMS) Tourism Infrastructure for Inclusive Growth Project (the project) is a multi-sector, multi-country regional investment project financed by separate sovereign loans. The project will invest in transport and environmental infrastructure and capacity building in the three participating countries of Cambodia, the Lao PDR and Viet Nam. Project areas in Cambodia are situated in Kampot, Kep, and Koh Kong provinces.

2. The expected outcome of the project in Cambodia is that increased international tourism receipts benefit men and women living in underdeveloped segments of the GMS Southern Coastal Corridor. Project outputs are: (i) improved last-mile tourism access infrastructure; (ii) improved environmental services in cross-border tourism centers; (iii) strengthened institutional capacity to promote inclusive tourism growth; and (iv) effective project implementation and knowledge management. There are two infrastructure subprojects:

- Kampot Pier Development in Kampot Province, with no resettlement impacts.
- Kep Crab Market Environmental Improvements, with minor resettlement impacts (temporary economic disruption)

3. The Kep crab market environmental improvements subproject, to be implemented in Kep Province, requires the preparation of this resettlement plan, in accordance with Cambodian Laws and regulations and ADB's Safeguard Policy Statement 2009 (SPS 2009). Kampot Pier Development and capacity building activities in Kampot, Kep, and Koh Kong will not have any resettlement impacts.

4. **Subproject Description: Kep Crab Market Environmental Improvements.** The crab market and adjacent beachfront hotel zone is the focus of both domestic and international tourism activity, receiving nearly 800,000 annual visitors. Intensive use, compounded by inadequate wastewater treatment is degrading the environment along the foreshore, threatens the health and well-being of local residents and tourists, and is becoming a deterrent to visit the area. The subproject proposes to (i) install a series of anaerobic baffle reactor tanks (ABR) and connect the toilets and sinks of shops and restaurants in the crab market to these units, (ii) expand the crab market structure in the adjacent dry goods area and upgrade internal drainage, paving, parking, and public toilets; (iii) provide an area for future installation of cold storage facilities in the crab market; (iv) provide equipment for routine de-sludging of the ABR; (v) upgrade power supply and install improved lighting in the market and adjacent public areas; and (vi) install signage in key locations. It is expected the project will improve sanitation and environmental conditions for 33 shops/restaurants, 300 mobile vendors, and 12,700 people living in the area adjacent to the market.

II. Scope of Land Acquisition and Resettlement

1. Scope of Land Acquisition

5. In designing the above subprojects the project has taken measures to avoid or minimize land acquisition and resettlement (LAR) impacts. The measures include:

- Civil works construction at the crab market will be sequenced to minimize disruption to shops, restaurants and mobile vendors. Construction activities will be implemented during weekdays and during low periods of tourist traffic only.

- The land to be developed for the Kampot Pier subproject is 4 hectares. The land belongs to one owner and is in the process of being acquired by the Kampot Provincial Government in 2014 through a voluntary donation from a wealthy landowner. The plot is being acquired in anticipation of ADB's support for this subproject. Due diligence has been conducted to appraise if the activities involved are consistent with Safeguard Requirement 2 of ADB's 2009 Safeguard Policy Statement (SPS) and Government Laws and Regulations. The due diligence report indicates that the landowner's voluntary donation of the currently vacant 4 hectare plot will not have any adverse impact whatsoever on the livelihood and household income of the owner. The land is only one small holding among many hectares owned by the family. The acquisition would have no negative bearing on the owner's present occupation and living standard given this voluntary contribution of vacant and unproductive land. Further, the present owner would not become vulnerable due to land acquisition. The present owner has verified the process of voluntary land donation and acquisition has been conducted without any coercion and agrees to transfer full ownership and title of the 4 hectare plot to the Kampot Provincial Government. The MOT has been informed that the project can be deemed effective only after ADB has received complete documentation of land transfer from the landowner to the Kampot Provincial Government.

2. Land Acquisition and Resettlement Impacts

6. The PPTA consultants undertook a census and inventory of losses (IOL) at the crab market from 18 to 19 September 2013. The IOL identified 33 restaurants/shops would experience temporary economic disruption as a result of loss of business income during civil works construction. Of the 33 affected restaurants/shops 26 own their building, and 7 own the business but rent the structure. The IOL shows that 28 building owners will experience impacts on their structure. The impact on structures consists of dismantling a narrow strip of concrete floor to connect toilets and sink drain pipes (sewerage and kitchen sullage/grey-water) to a main collection pipe linked to an anaerobic baffled reactor (ABR) septic tank system that will treat wastewater. These construction activities will be financed by the project's civil works budget, financed by loan proceeds, and carried out by the civil works contractor. All business operators (the total is 33 at the time of the IOL) are expected to experience a tentative 3-day period of closure while connections are made to the ABR. Construction during the weekend and holidays, which is the busy period for the crab market, will be avoided. The 33 restaurant operators have 119 family members, for a total of 152 affected persons. The businesses employ a total of 10 men and 44 women as part-time workers mainly for weekends and peak periods. The employees are not expected to experience any loss of employment or loss of income from the subproject activities due to the temporary nature of works and resettlement impacts.

III. Socio-economic Information and Profile

7. The affected households include 33 business operators, with 7 building owners that rent their building to a business operator. Of the 33 business operators, 28 responded to the survey, including 18 women and 10 men whose main occupation is restaurant operator (5 business owners were not available to respond to the survey). All are Khmer ethnicity. The average annual income is \$16,000. None are poor or vulnerable.² Many of the affected

²All are well above the daily poverty line of 6,347 Riel in Phnom Penh (about \$1.50); 4,352 Riel in other urban areas; and 3,503 Riel in rural areas (Ministry of Planning, 2013).

households also have a secondary occupation that is an additional source of income (Table 1). The education levels of the affected head of household are presented in Table 2.

Table 1: Secondary occupation of HH respondents

Occupation	N	(%)
1. Farmer (own farm)	2	16.7
2. Construction profession	1	8.3
3. Government employee	8	66.7
4. None (work around the house...)	1	8.3
Total	12	100.0

Table 2: Educational levels of HH respondents

Educational Level	N	(%)
1. No education	9	32.1
2. Primary, completed	4	14.3
3. Lower Secondary, completed	6	21.4
4. Upper Secondary, completed	3	10.7
5. Post-secondary, completed	3	10.7
6. University	3	10.7
Total	28	100.0

8. There are 17 affected households that use their structure at the crab market for their main residence and business, and 16 affected households that use it for business only. None have legal title to the land and use it on a non-titled basis with consent of the provincial government. There are 7 are renters, paying their rent to the business/structure owner having acquired usage rights for that location. 17 affected households have occupied the location beginning at some time between 1989 and 1996; and 11 have occupied their location beginning at some time between 2000 and 2013.

9. The respondents were all informed about the subproject at the time of the completion of the IOL. They generally agreed with the proposed construction of the wastewater treatment system and the connection of their toilets and sinks to the ABR. When asked about the dismantling and repair of the narrow section of their floor to connect their toilets and sinks to the new septic treatment system, 3 affected persons responding to the survey preferred to dismantle and repair themselves, 13 preferred the contractor to do it, and 12 were undecided. Participants were concerned about potential business losses and expressed interest in provisions to avoid business losses including compensation (priority was on managing construction to avoid losses). All respondents were interested to participate in further consultations. All respondents also indicated that they were interested to receive more tourists and gain more income from tourism activities.

IV. Information Disclosure, Consultation and Participation

10. During resettlement plan preparation, the PPTA consultants conducted interviews and consultations with 22 women and 4 men who operate businesses at the market, together with representatives of the local authorities. The minutes of the consultations are in Annex 1. The content of consultation meetings involved discussions on the following topics:

- Proposed infrastructure improvements;

- Temporary resettlement impacts (business losses);
- Entitlement and compensation;
- Objectives of the census, Inventory of Losses, and socio-economic surveys, including the role of the census in establishing the cut-off date for eligibility;
- Need for active participation of the community;
- Affected persons views on the subproject, its benefits, how to avoid impacts on structures and businesses, and minimize environmental and resettlement impacts.

11. During the consultations, the affected persons at the Crab Market agreed that the activity to improve sanitation at the market was overall beneficial. They understood that they would experience temporary disruption during the construction period but welcomed the fact that the market would have improved sanitation and could therefore attract more visitors. Their main concerns are summarized below:

- They suggested that construction work be limited only to weekdays as international and domestic tourist traffic is high during weekends and public holidays.
- They are concerned that during the construction phase at the crab market the business activity of the mobile and fixed sellers may be disturbed, and if necessary, the Crab Market Association should designate temporary places in the parking area or the open square in front of the market, in order to maintain their business;
- Proper management of the waste and noise during the construction phase;
- They agreed to contribute for the ABR operating and maintaining fee but they suggested that the fee should not exceed 5,000 to 10,000 Riels per month.
- Continue the consultation process to enable them to plan ahead and be ready during the actual temporary disruption during the construction phase.

12. Further consultation with the AHs will be carried out prior to and during the detailed design stage so that their needs and preferences can be further incorporated into the design arrangements. With regard to losses due to business disruption and on the basis of consultations undertaken during project preparation, further consultations to be conducted during project implementation to provide further information on the project, explain the benefits of the project, and explain disruption that they may encounter, and explain the mitigation measures that will be carried out by contractors.³

13. AHs will participate in the Detailed Measurement Survey (DMS), Replacement Cost Survey (RCS) as required, compensation and provision of other entitlements, monitoring of impacts and benefits, and discussion and settlement of grievances. The scope of information to be provided to AHs includes (i) description of the project and overall implementation schedule, (ii) Detailed Measurement Survey and Replacement Cost Survey results, (iii) policy principles and entitlements and assistance, (iv) grievance redress procedures, (v) timing for payments and displacement schedule, and (vi) institutional responsibilities.

14. An ADB Staff Consultant together with the IRC-Working Group (IRC-WG), Kep Provincial Resettlement Subcommittee, and relevant local authorities will confirm, record, and verify voluntary donations, if any. They will also verify that (i) the subproject was selected in full consultation with all affected people; (ii) voluntary donations do not severely affect the living standards of affected people; (iii) voluntary donations are linked directly to benefits for the

³ The consultations with the AHs will be chaired by IRC-WG with participation from Kep Provincial Resettlement Subcommittee working group, relevant local authorities, ADB representatives, and the civil work contractor.

affected people; (iv) there is an adequate grievance process; (v) no affected household will be displaced from housing and severely affected; and (vii) no affected household is vulnerable.⁴ The voluntary donation report will be attached to the updated resettlement plan.

15. The project information has been disseminated to the AHs during the process of public consultation at the time of preparation of resettlement plan and this will continue throughout the project cycle. Draft Project Information Booklet (PIB) in Khmer will be disclosed at relevant commune offices before project appraisal and the updated PIB in Khmer will be distributed to each AH during the DMS. Updated RP in Khmer will be placed at relevant Commune Offices. Draft RP at project appraisal and updated RP following detailed design will be uploaded on the ADB's website in compliance with ADB's SPS. IRC-WG in close coordination with PRSC-WG will disclose updated RP to relevant commune offices and distribute the PIB to each AH. Internal monitoring reports on resettlement activities will be prepared as part of quarterly project progress reports and uploaded to the EAs website and ADB website.

V. Grievance and Redress Mechanisms

16. This section presents the information and arrangement for addressing conflicts and appeal procedures regarding eligibility and entitlements as well as the implementation of the resettlement activities.

17. A well-defined grievance redress and resolution mechanism will be established to address AHs grievances and complaints regarding land acquisition, compensation and resettlement in a timely and satisfactory manner. A grievance committee will be established at provincial level with a process starting from Commune Offices. The procedures for grievance redress are set out below:

Stage 1: Affected Household (AH) will submit a letter of complaints/requests to the Village or Commune Resettlement Sub-committee or IRC-WG. The Sub-committee will be obliged to provide immediate written confirmation of receiving the complaint. If after 15 days the aggrieved AH does not hear from Village or Commune Resettlement Sub-committee, or if the AH is not satisfied with the decision taken by in the first stage, the complaint may be brought to the District Office.

Stage 2: The District office has 15 days within which to resolve the complaint to the satisfaction of all concerned. If the complaints cannot be solved in this stage, the district office will bring the case to the Provincial Grievance Committee.

Stage 3: The Provincial Grievance Redress Committee meets with the aggrieved party and tries to resolve the complaint. The Committee may ask for a review of the DMS by an external monitor. Within 30 days of the submission of the grievance the Committee must make a written decision and submit a copy of the same to MOT, external monitor, PIU, the IRC and the AH.

Stage 4: Court Procedures. If the aggrieved AH is not satisfied with the solution made by the Provincial Grievance Redress Committee based on the agreed policy in the RP, the

⁴ A vulnerable household would be defined according to the following criteria: (i) female headed households with dependents, (ii) disabled household heads, (iii) households falling under the generally accepted national indicator for poverty, (iii) children and the elderly households who are landless and with no other means of support, (iv) landless households, and (v) indigenous people or ethnic minorities.

committee shall file administrative procedures against the AHs with the participation of provincial prosecutors. The case will be brought to the Provincial Court and the same will be litigated under the rules of the court. During the litigation of the case, Royal Government of Cambodia will request from the court that the project proceed without disruption while the case is being heard. If any party is unsatisfied with the ruling of the provincial court, that party can bring the case to a higher court. The Royal Government of Cambodia shall implement the decision of the court. The mechanism should not impede access to the country's jurisdiction or administrative remedies.

18. All administrative costs of the Grievance Committee involved in resolving the complaints (e.g. meetings, consultations, communication and reporting/information dissemination) of the Grievance Committee will be borne by the executing agency. The Grievance Redress Mechanism will be readily accessible to the affected people at no costs and without retribution.

19. In cases where AHs do not have the writing skills or are unable to express their grievances verbally, it is a common practice that AHs are allowed to seek assistance from any recognized local groups, NGO's, or other family members, village heads or community chiefs to have their complaints or grievances written for them. AHs will be allowed to have access to the DMS or contract document to ensure that where disputes do occur, all the details have been recorded accurately enabling all parties to be treated fairly. Throughout the grievance redress process, the responsible committee will ensure that the concerned AHs are provided with copies of complaints and decisions or resolutions reached. A copy of the minutes of meetings and actions undertaken shall be provided to IRC and ADB upon request

20. If AHs are still not satisfied with the resolution of their complaints at the project and central level they may also (or permit representatives to on their behalf) raise their concern or complaint with ADB's Southeast Asia Department, through ADB's Cambodia Resident Mission office in Phnom Penh.

VI. Legal Framework

21. The legal and policy framework for compensation and resettlement under the Project is defined by the relevant laws and regulations of the Royal Government of Cambodia (RGC) and the ADB Safeguard Policy Statement, Public Communications Policy (2011), and accountability mechanism. Below is an overview of the relevant laws of Cambodia:

1. Cambodia Laws and Regulations

1.1 1993 Constitution

22. *The 1993 Constitution of Cambodia* has established one governing principle in Article 44 pertaining to land acquisition.

23. **Article 44** states that "All persons, individually or collectively, shall have the right to ownership. Only Khmer legal entities and citizens of Khmer nationality shall have the right to own land. Legal private ownership shall be protected by law. The right to confiscate properties from any persons shall be exercised only in the public interest as provided for under the law and shall require fair and just compensation in advance."

1.2 Land Law

24. The rights to land and property in Cambodia are governed by *the 2001 Land Law*, which are primarily based on the provisions of *the 1993 Constitution*. The law defines the scope of ownership of immovable properties, such as land, trees and fixed structures.

25. The Land Law, **Article 5**, states that “No person may be deprived of his ownership, unless it is in the public interest. Any ownership deprivation shall be carried out in accordance with the governing procedures provided by law and regulations, and after the payment of fair and just compensation in advance.”

26. Other provisions of the Land Law that are relevant to land acquisition, compensation and resettlement include:

- Only legal possession as provided by law can be transformed to land ownership. (**Article 6**)
- Any regime of ownership of immovable property prior to 1979 shall not be recognized. (**Article 7**)
- **Article 15** states that “*the following properties are included as public properties of state and public legal entities: a) any property that has a natural origin, such as forests, courses and banks of navigable and floatable rivers or natural lakes and seashores; b) that is made available for public use such as quays of harbors, port, railways, railways station and airports; or, c) any property which is made available, either in its natural state or after development, for public use such as roads, tracks, oxcart ways, pathways, gardens or public parks and reserved lands.*”
- **Article 18** states that “*the following are null and void and cannot be made legal in any form whatever: a) any entering into possession of public properties of State and public legal entities and any transformation of possession of private properties of State into ownership rights that was not pursuant to the legal formalities and procedures that have been stipulated prior to that time, irrespective of the date of creation of possession or transformation; e) any entering into possession of private properties of State, through any means, that occurs after this law comes into effect*”.
- **Article 19** states that “*any persons whose land title or factual circumstance fall within the scope of **article 18** of this law shall not have the right to claim compensation or reimbursement of expenses paid for the maintenance or management of immovable property that was illegally occupied. Any illegal and intentional or fraudulent acquisition of public properties of state or of public legal entities shall be penalized pursuant to article 259 of this law. The penalties shall be doubled where any occupation of public properties because damages or delay to works undertaken in the general interest, especially the occupation of roadway reversed land*”.
- Ownership of immovable properties described in **Article 25** is granted by the state to indigenous minorities⁵ as collective ownership. This collective ownership includes all of the rights and protections as enjoyed by private owners. The exercise of collective ownership rights shall be subject to the responsibility of the traditional authorities and decision-making mechanisms of the indigenous

⁵ 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.*”

community, according to their customs and subject to the laws of general enforcement related to immovable property such as *the law on environmental protection*. (**Article 26**)

- Persons with legally valid possession of land for five years (at the time the law came into effect) are allowed to be registered as the owner of the land (**Article 30**). Persons who (at the time the law came into effect) held legal possession but had not yet completed the five years were allowed to remain in possession until they were eligible to be registered as the owner. (**Article 31**)
- Any beginning of occupation for possession shall cease when this law comes into effect (**article 29**). After this law comes into force, any new occupant with title to an immovable property belonging to the public bodies or private persons shall be considered as illegal occupant and shall be subject to the penalties provided in **Article 259** of this Law (**Articles 34**).
- **Article 38** states that "*in order to transform into ownership of immovable property, the possession shall be unambiguous, non-violent, and notorious to the public, continuous and in good faith*".
- 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*. (**Articles 50, 51**).

1.3 Expropriation Law Dec. February 2010 - procedures for acquiring private properties for national or public interest

27. **Article 2:** the law has the following purposes: (i) ensure reasonable and just deprivation of a legal right to ownership of private property; (ii) ensure payment of reasonable and just prior compensation; (iii) serve the public and national interests; and (iv) development of public physical infrastructure.

28. **Article 7:** Only the state may carry out an expropriation for use in the public and national interests.

29. **Article 8:** The state shall accept the purchase of the remaining part of the real property left over from an expropriation at a reasonable and just price at the request of the owner of land/or the holder of rights in the expropriated real property, if he is no longer able to live near the expropriated scheme or build a residence or conduct any business.

30. **Article 12:** An Expropriation Committee shall be established and headed by a representative from the Ministry of Economy and Finance, and other representatives from concerned ministries/institutions.

31. **Article 13:** An Expropriation Sub-Committee acting as the secretariat of the Expropriation Committee shall be established and headed by the provincial/municipal governor and composed of representatives from relevant specialized provincial departments and authorities.

32. **Article 16** states that "Prior to make any expropriation project proposal, the Expropriation Committee shall conduct a public survey by recording of a detailed description of all entitlements of the owners and/or of the holder of real right to immovable property and other properties subject to compensation as well as recording of all relevant issues.

33. In conducting the survey, the Expropriation Committee shall organize public consultations at the Capital, Municipal-Provincial, and District-Khan authority levels with

Commune/Sangkat councils and Village or community representative to be affected by the expropriation to provide specific and concise information and collect inputs from all stakeholders regarding the proposed basic public infrastructure project.

34. In order to set a dateline for the expropriation or relocation or compensation, the Expropriation Committee shall conduct a dateline interview with all concerned parties about the issues of immovable property to be affected by the public physical infrastructure project. Within 30 (thirty) working days after the completion of the survey, the Expropriation Committee shall produce a report with recommendations and submits it to the Royal Government for approval.”

35. **Article 22:** Stipulates the amount of compensation to be paid to the owner of and/or holder of rights in the real property, which is based on the market value of the real property or the replacement cost as of the date of the issuance of the *Prakas* on the expropriation scheme. The market value or the replacement cost shall be determined by an independent commission or agent appointed by the expropriation committee.

1.4 Other Relevant Regulations

36. 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 a proof of real occupant of the land for land purpose or sale.

37. 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.

38. **Sub-Decree on Social Land Concession, March 2003** - provides for allocations of free private state land to landless people of residential or family farming, including the replacement of land lost in the context of involuntary resettlement.

39. **Prakas No.6**, entitled “*Measures to Crack Down on Anarchic Land Grabbing and Encroachments*”, sets ROW for road and railway. 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. Some Road dimensions are modified by *the Sub-decree No.197* adopted on 23 November 2009 on to Management of ROW along the national road and railway in Cambodia.

Table 2-1: Road and Railways ROW Dimensions

Road Category	ROW Dimensions under Prakas No.06	ROW Dimensions under Sub-decree No.197
NR-1, 4, and 5	30 m from the centreline	30 m from the centreline
Other 1-digit NRs	25 m from the centreline	30 m from the centreline
2-digit NRs	25 m from the centreline	25 m from the centreline
Provincial roads	20 m from the centreline	not specified
Commune roads	15 m from the centreline	not specified
Railway outside city, province and crowned place	30m from the centreline	30m from the centreline
Railways in forest area	100 m from the centreline	100 m from the centreline

2. ADB Policies

40. The applicable ADB Policy on Involuntary Resettlement is the Safeguard Policy Statement 2009 (the SPS 2009), and detailed in ADB's OM Section F1/OP (issued on 4 March 2010).

41. The main objectives of ADB's Policy on Involuntary Resettlement is to avoid or minimize impacts on people, property and businesses affected by the acquisition of land or other impacts of the project, including impacts on livelihood and income, that arise from the implementation of the project. Where involuntary resettlement is not avoidable, it must be minimized by exploring project alternatives. The SPS 2009 describes the objectives of ADB's involuntary resettlement safeguards as aiming to enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels; and to improve the standards of living of the displaced poor and other vulnerable groups.

42. ADB's Policy on Gender and Development (2006) adopts gender mainstreaming as a key strategy for promoting gender equity, and for ensuring that women participate and that their needs are explicitly addressed in the decision-making process. For projects that have the potential to cause substantial gender impacts, a gender plan is prepared to identify strategies to address gender concerns and the involvement of women in the design, implementation and monitoring of the project.

43. Other policies of the ADB that have bearing on resettlement planning and implementation are the (i) Public Communications Policy (2011); and (ii) Accountability Mechanism (2012). According to these policies, central Project Coordination Units (PCUs) and PIUs are required to proactively share and disclose the project information with stakeholders and the public.. Affected people should have easy access to the project information. People adversely affected by the project should be able to freely voice their views and seek solutions to their problems during and after resettlement. The grievance redress mechanism, therefore, must be included in the resettlement plans and disclosed to the affected people.

44. Together, relevant RGC Laws and Regulations and the ADB Safeguard Policy Statement 2009 provide the legal basis to identify past, present, and future involuntary resettlement impacts and risks, outlining procedures to 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.

3. Gap Analysis

45. The resettlement and compensation policies for the Greater Mekong Suregion Tourism Infrastructure for Inclusive Growth Project are to be in accordance with ADB requirements and laws of the Government of Cambodia. Under the ADB policy, the bank’s requirements must be met with regards to resettlement as defined in the ADB Safeguard Policy Statement 2009.

46. While there are policies and practices of the Royal Government of Cambodia (RGC) that are consistent with ADB’s SPS, whenever there is a gap ADB’s SPS principles will apply. Past experience of the RGC in ODA funded project showed that some ordinances which were not consistent with ODA policies were waived, in favor of ODA’s policy requirement. For the proposed Kep Crab Market Environmental Improvements subproject, the provisions and principles adopted in this resettlement plan shall be applied to be consistent with the ADB’s SPS and Cambodian laws and regulations. The differences as well as compatibilities between the RGC Laws and Decrees and ADB Policy with regard to resettlement and compensation are provided in Table 3.

Table 3: Gap Analysis

Key Issues	State Legislation	ADB Policy	Project Policy
Eligibility for compensation & assistance does not include AHs without land title.	Illegal occupants are not entitled to compensation due to violation on declared land use plan; or if they have constructed without permit or have encroached on demarcated land for ROW.	Those without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets. Improve the standards of living of the displaced poor and other vulnerable groups, particularly women.	All AHs without any discrimination whether or not land is owned are eligible for resettlement assistance and compensation for loss of non-land assets. Particular focus on improving the standards of living of the displaced poor and other vulnerable groups, including women.
No compensation for those illegally settled on the ROW.	The MEF Prakas is consistent 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 AH or a member of vulnerable groups.	All AHs, including those without titles, or are within the ROW are eligible for resettlement assistance and compensation for loss of non-land based assets.	All AHs, including those without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets. Particular focus on improving the standards of living of the displaced poor and other vulnerable groups, including women.
Immoveable assets.	Any regime of ownership of immovable property prior to 1979 shall not be recognized (Article 7).	All affected person shall be entitled for resettlement assistance and compensation for non-land based assets.	All AHs, including those without titles, or are within the ROW are eligible for resettlement assistance and compensation for loss of non-land assets.

Key Issues	State Legislation	ADB Policy	Project Policy
Imprisonment on failure to vacate land according to schedule.	Failure to vacate illegally occupied land. Those who do not vacate occupied land in a timely manner are subject to fines and/or imprisonment. (Article 19)	Protection and improvement of the quality of life of AHs.	Sufficient time and advance notice and resettlement support given to AHs during transfer, such as transportation and demolition assistance. Food allowance during transfer and settlement for a specified period approved by the IRC.
Unregistered businesses.	Recognizes businesses or economic entities only if they hold a business certificate (i.e. excludes non-registered businesses).	For non-land assets, all eligible affected people, whether titled, legitimate, or non-titled need to be compensated at replacement cost, through cash or replacement assets. Included among these AHs are renters of buildings, tenants and employees of affected businesses.	Inclusion of those who are economically displaced, even those who are not formally registered (e.g. unregistered businesses, employees without labor contracts). All affected persons will be assisted to ensure that their income sources are restored to at least pre-project levels.
Entitlements on severity of losses.	No specific legislation on severity of losses on productive land.	ADB policy defines affected persons to have experienced severe losses when they are physically displaced from housing or lose 10% or more of their productive assets (income generating).	AHs who will lose 10% or more of their productive assets (income generating) or who will be physically displaced will be provided with additional assistance.
Land valuation.	The price for land compensation is calculated based on the prevailing cost of land at the time of land acquisition which is defined by the IRC. Land payment is usually based on negotiated price between land owner and the government "willing buyer-willing seller" approach.	ADB policy requires an independent land appraiser who has working knowledge on property valuation and that the appraisal methodology used is consistent with international standards.	An independent land appraiser will be engaged to conduct the replacement cost study during the DMS for the project and the results of the replacement cost study will be used for compensation of the updated RP, to be approved by the provincial government.

4. Project Policies and Principles

47. In order to achieve the RP's objectives the project will adhere to the policies and principles of the RP as set forth below:

- (i) Involuntary resettlement and impacts on land, structures and other fixed assets will be minimized where possible by exploring all alternative options.
- (ii) Compensation will be based on the principle of replacement cost reflecting the current market price.
- (iii) All the affected households (without any discrimination such as household headed by women, disabled elderly, landless and people living below the national poverty line) confirmed to be residing in, doing business, or cultivating land or having right

over resources within the sub project affected area or land to be acquired or used for sub project during the conduct of IOL and census of AH (cut-off date) are eligible for resettlement assistance and compensation for non-land assets at replacement cost as mentioned in the entitlement matrix.

- (iv) Meaningful consultation will be carried out with the AHs, indigenous households, affected communities and concerned groups and ensure participation from planning up to implementation. The comments and suggestions of AHs and communities will be taken into account.
- (v) The final draft and any updates on the RP will be disclosed at relevant Commune Offices in a form and language(s) understandable to them after approval from the Government and ADB.
- (vi) Resettlement identification, planning and management will ensure that gender concerns are incorporated.
- (vii) Provide all affected households requiring relocation with needed assistance including the following; assistance and allowances, secure tenure to the relocated land, and better living conditions⁶ at resettlement sites.
- (viii) Special measures will be incorporated in the resettlement plan to protect socially and economically vulnerable groups such as indigenous households, households headed by women, children, disabled, the elderly, landless and people living below the generally accepted poverty line.
- (ix) Existing cultural and religious practices will be respected and, to the maximum extent possible preserved.
- (x) Culturally appropriate and gender-sensitive social impact assessment and monitoring will be carried out in various stages of the project.
- (xi) Adequate resources will be identified and committed during the preparation of the RP which shall include sufficient budgetary support and made available to cover resettlement costs within the agreed implementation period.
- (xii) There will be no civil works that shall take place for any segment of the subproject, until (i) compensation has been fully paid to AHs; (ii) agreed rehabilitation measures are in place (iii) the area is free from all encumbrances.

VII. Entitlements, Assistance and Benefits

48. Table 4 provides the compensation and benefits to which affected persons will be entitled:

Table 4: Matrix of Entitlements

Type of Loss	Entitled Persons	Compensation Policy	Implementation Issues
I. Loss of Houses, Other Structures, and Business Income			
Partially affected structures used for business/dwelling (i.e. estimated 411m ² section of concrete floors temporality affected)	28 business owners	The civil work contractor will repair flooring or any other structure affected by the connection of the septic tank free of charge. The budget is provisioned in the civil works and so will not be paid out as compensation.	Materials to be used for the repair must be the same the existing floor materials (all surveyed were concrete) so that the floor is the same quality as before dismantling. The civil works contractor will clear debris to ensure site is in same state as before dismantling.

⁶ This refers to improvements in amenities including (i) provision of a toilet and other sanitation facilities, (ii) drainage to ensure the plot does not flood, (iii) ensured connection to electricity and water, and have access roads.

Table 4: Matrix of Entitlements

Type of Loss	Entitled Persons	Compensation Policy	Implementation Issues
Mobile vendors	All mobile vendors selling at the Crab Market as a means of livelihood (approx. 300 vendors)	-No compensation and assistance will be provided. However, all vendors accessing the Crab Market to sell products will be allowed to continue to sell during and after subproject construction; temporary market areas in the public square adjacent to the market will be designated for their use whenever access to the main market is disrupted.	Although this group is not entitled to direct compensation based on preliminary design, the final design must ensure the improved Crab Market spaces promotes equivalent or additional space for mobile vendor circulation and that activities of mobile vendors are to be facilitated during and after construction.
For loss of business	33 business operators owners at the Crab Market (152 household members)	Cash compensation equivalent to average daily profit of USD50/day ⁷ for 3 days of disruption.	-Construction disruption is estimated to be for a 3-day period. -All business operators will be informed by civil work contractor at least <u>7 days</u> in advance before the start of connecting their toilets and sink drain pipes to a main collection pipe. The final subproject detailed design must ensure that renters/business operators will have the same space after the market improvements are implemented. All design plans must be made in consultation with market vendors.
II. Unforeseen Impacts			
Unforeseen Impacts if any during project implementation		- Compensation for the affected properties at replacement cost. -This compensation package will be under civil work contractor.-	- Appropriate mitigation measures and same entitlement will be applied to any AHs that will emerge due to changes, if any, during the detailed design. -Compensation will not apply to new occupants after the cut-off date.

49. **Cut-off date.** All AHs conducting business and/or residing in the project-impacted areas on the cut-off date of 31 September 2013 (date of completion of IOL survey) will be entitled to compensation for their affected assets, and rehabilitation measures sufficient to assist them to improve or at least maintain their pre-project living standards, income-earning capacity and production levels. Those who encroach into the subproject area after the cut-off date will not be entitled to compensation or any other assistance.

VIII. Income Restoration and Rehabilitation

50. The compensation for affected persons for their structure and businesses losses will ensure that, for those not contributing voluntary donations, they do not experience any losses as a result of the subproject. At the crab market, the key measures are to ensure that all affected persons that will have to temporarily close their business or sell from a different site

⁷ The average income is based on the socio economic survey conducted in September 2013 during PPTA.

during construction are able to return after construction to the same space. Space for mobile vendors to operate will be maintained during and after the period of civil works upgrades.

51. Affected persons will be included in the lists of small and medium enterprise owners to receive business support services and training on how to increase their incomes from tourism under the project's capacity development activities (Output 3). This includes training for (i) business planning and management; (ii) how to access microfinance and financial literacy; (iii) service/production group formation/strengthening; (iv) handicraft/food production and marketing, quality enhancement, and efficient production techniques; and (v) hospitality services. The training is to be financed by loan proceeds, coursed through MOT and Department of Tourism. The project will result in higher numbers of tourists and local traffic in the market area and the affected persons will benefit from these investments in tourism training.

52. **Gender.** Women represent two-thirds of the affected business owners at the crab market. Women participated in the consultations leading to the identification of entitlements, and the measures included in the resettlement plan will ensure that they are compensated for any losses. Such consultations will be continued during the entire project cycle from the time of resettlement plan updating, and during implementation to address specific resettlement concerns, such as compensation for business losses. In keeping with the project's categorization as effective gender mainstreaming, women household members will have priority for gaining access to training opportunities. Men will also have opportunities participate in hospitality services and microenterprise training.

IX. Resettlement Budget

53. The cost for resettlement will be covered from the counterpart funds of the Royal Government of Cambodia. At the official request of the IRC, the Ministry of Economy and Finance shall provide the funds for the implementation of the resettlement plan in a timely manner through the Provincial Department of Economy and Finance.

54. An accounting procedure and format for the disbursement of compensation will be prepared by the RD-MEF for approval by the IRC. Payment of compensation and any allowances shall be given to the AHs in the office of the commune by the Provincial Department of Economy and Finance in the presence of IRC-WG, Provincial Resettlement Subcommittee (PRS), commune/village chief or committee, and representatives of the AHs. The total cost of resettlement is estimated at \$11,028. Of this total \$4,950 is the estimated direct cost of compensation for business losses, \$4,240 is the implementation cost, and \$1,838 (20%) has been allocated for contingency. The budget will be updated at the time of the DMS/consultation with AHs. The Royal Government of Cambodia will cover the costs in the resettlement budget (Table 5). The cost for the dismantling and repair of the floors to connect restaurants to the septic tanks at the Crab Market is included in the project's civil works budget (estimated at \$10,000), to be financed by loan proceeds.

Table 5: Resettlement Budget – Kep Crab Market

No.	Items	Unit of Measure	Rate (\$/unit)	Quantity	Amount (\$)
1	Business income – 3 days, based on estimate of daily sales of \$50 day	AH	150	33	4,950
	Direct Cost				4,950
2	Community consultations	Event	150	6	900

3	Set up temporary market site ^a	Lump-sum		-	1,000
4	Capacity building for RP implementation	Lump-sum		-	1,500
5	Monitoring	5%		-	420
6	Administrative costs	5%		-	420
	Implementation Cost				4,240
7	Contingency	20%			1,838
	Total				11,028

^aFor mobile vendors at crab market during civil works construction, if necessary.
Source: PPTA consultants.

X. Institutional Arrangements

55. **The Ministry of Tourism (MOT).** MOT is the project's executing agency and will oversee all project activities including RPs. MOT will establish a Project Coordination Unit (PCU) that will assure coordination of the implementation of this resettlement plan. The MOT/PCU and MPWT shall nominate its officials to participate in the resettlement implementation under the guidance of the Inter-Ministerial Resettlement Committee (IRC) . MOT and the PCU will coordinate closely with the IRC and IRC Working Group (IRC-WG) on all matters of involuntary resettlement, working closely with the Resettlement Department of the MEF (RD-MEF) to prepare, and update the RP. MOT's specific tasks include the following:

- Secure the approval of the RP from the IRC;
- Secure prior approval by IRC and the ADB for any variations in the approved RP;
- Update the RP after the detailed measurement survey (DMS);/consultation with AHs during actual implementation .
- Secure the data base of affected households and assets that will be gathered during the preparation and updating of the RP.
- Prepare progress reports/internal monitoring on overall project implementation including the RP implementation and submit to the IRC and ADB.

56. The Kep Provincial Department of Tourism (DOT) will establish a Project Implementation Unit comprising staff of the DOT and DPWT. The PIU will have one full time Safeguards Officer to coordinate implementation of the RP. The PCU will provide technical assistance to PIU as necessary.

57. **Inter-Ministerial Resettlement Committee.** Based on the Prime Minister Decision No. 13, dated 18 March 1997, the Inter-Ministerial Resettlement Committee (IRC) was firstly established in 1999 to review and evaluate the resettlement impact and land acquisition for Phnom Penh-Ho Chi Minh City Highway Project funded by the ADB Loan 1659-CAM. The IRC is a collective entity composed of representatives from different line ministries, such as the MPWT (Project Executing Agency), the Council of Ministers (COM), the Ministry of Agriculture, Forestry and Fisheries (MAFF); Government Delegate in Charge of Phnom Penh Capital City; and Governor and Deputy Governor of the Provinces where the project located (Kandal, Preyveng and Svayreang Provinces). The IRC has emerged as the decision making body on resettlement issues and has since been involved in other foreign-assisted government infrastructure projects with involuntary resettlement. The MEF is the permanent Chair of the IRC and represents it for all development projects.

58. The IRC shall assume the function of a quasi-regulatory body, ensuring that funds for resettlement are spent properly and that the RP is carried out as intended. The technical arm of the IRC is the RD-MEF, tasked to assist the IRC in carrying out the following:

- Review and approve the RP, ensuring that the RP is consistent with ADB's 2009 Safeguard Policy Statement and later, the loan/project agreement;
- Endorsing the approved RP to ADB;
- Leading the RP implementation at the Project areas such as DMS, public consultations with AHs, information disclosure, etc; based on the agreed policy and principles of this RP;
- Establishing or convening the Provincial Resettlement Committee and its Working Group;
- Securing from the national treasury the budget for carrying out the RP, ensuring that funds are available in a timely manner and in sufficient amounts;
- Approving all disbursements connected with the implementation of the RP, such as payment of compensation and other entitlements, acquisition and preparation of replacement plots, operational expenses of personnel, etc.;
- Ensuring that funds for resettlement are spent judiciously; and

59. **Provincial Resettlement Sub-Committee (PRSC):** The PRSC is a collegial body at the provincial level headed by the Provincial Governor or Deputy Governor of the Provinces where the Project located. The members of the PRSC are provincial department directors of line ministries represented in the IRC, and also the chiefs of the districts and communes where the Project located.

60. The technical arm of the PRSC is the Working Group (PRSC-WG). The PRSC-WG is headed by the Chief or Deputy Chief of the Provincial Cabinet, with a Director (or a representative) of the Provincial Department of Public Works and Transport (DPWT) as members. The PRSC-WG has a counterpart at the district level and commune level composed of personnel from various line agencies.

61. The PRSC, through the provincial and district working groups are responsible for the following functions:

- Facilitate public information campaigns, ensuring that the public, especially the AHs, are updated on any developments regarding the project and resettlement activities;
- Participate in the DMS and updating of the census of AHs, including updating of entitlements;
- Spearhead the selection, acquisition, and preparation of replacement plots, 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 project area;
- Spearhead the delivery of compensation and other entitlements to the AHs;
- Receive and act on the complaints and grievances of AHs in accordance with the project resettlement policy; and
- Maintain a record of all public meetings, grievances, and actions taken to address complaints and grievances.

62. The concerned **local administrative authorities** (District/Town and Commune) will coordinate and work closely with IRC during the RP implementation. Their roles and responsibilities are to:

- Arrange places for consultation with AHs during the DMS and other resettlement-related activities;
- Facilitate discussions with AHs during the negotiation and compensation process;
- Register new settlers in the area. The local authorities will monitor and be responsible for informing residents and new settlers not to construct houses/structures in the areas where there will be improvement/construction.

63. **Project Consultants.** A national social safeguards specialist (3 months, intermittent inputs) will be hired by (whom) to support the PCU in updating the RP. The resettlement consultant will have experience in both planning and implementation of resettlement plans in Cambodia, and help develop the capacity of national, provincial and local officials responsible for updating, and internal monitoring of the RP. Specific tasks include:

- Assist MOT to update the RP and provided needed technical support to facilitate its approval;
- Ensure that due diligence in implementing the RP is carried out;
- Design and deliver capacity development activities on ADB social safeguard policies for all relevant agencies as needed, including requirements for participation, communication, and gender mainstreaming;
- Assist the PCU and PIU to prepare the methodology and required materials to undertake effective information campaigns about the project resettlement related information, project implementation/construction schedule and conduct of public consultations;
- Assist in the conduct of the information campaigns, public consultation, and community participation on social safeguards;
- Coordinate the detailed measurement survey (DMS)/community consultations, based on detailed engineering design and update the list of affected persons if any change from the preliminary design;
- Verify the calculations of compensation during the RP updating, based on the DMS/community consultations, conducted by the IRC-WG and PRSC-WG, in relation to the provisions of the RP entitlement matrix;
- Participate and monitor compensation payments to AHs and advise the IRC-WG and PRSC-WG of any actions needed to ensure compensation is paid in full and in a timely manner;
- Ensure that grievances are addressed promptly and properly and that the grievance redress mechanism is functioning well;
- Provide periodic training on grievance redress procedures, if necessary;
- Closely coordinate to ensure proper technical and logistical support to PIUs, local administrative authorities, resettlement committees and concerned government departments;
- Establish and implement procedures for internal monitoring;
- Train PIU and PCU assigned social safeguards focal persons to carry out internal monitoring and reporting of the RP implementation;
- Review the survey materials and methods that will be used to complete the detailed measurement survey during detailed design, and recommend improvements as may be required;
- Coordinate with IRC-WG and PRSC-WG in implementing the RP;
- Together with members of the IRC-WG, brief officials at all levels on the content and procedures for implementing the RP and if necessary, provide suggestions to improve procedures for the coordination of resettlement and compensation;

- Prepare quarterly status reports and periodic spot checks on the implementation of RP, to be submitted to IRC and ADB through the PIU and PCU.

XI. Indicative Implementation Schedule

64. All resettlement activities will be coordinated with the civil works schedule. The civil works contract shall not be awarded until the updated RP has been reviewed and approved by ADB. All the resettlement impacts are expected to be limited to the construction period and hence will be assessed further and paid based on actual loss. The tentative implementation schedule for resettlement actions is in Table 7.

Table 7: Implementation Schedule

Tasks	Schedule
Establish the PCU and PIUs	Quarter 1, Year 1
Undertake consultation and participation programs	Continuous
Establish compensation and resettlement committees at all levels	Quarter 2, Year 1
Updated census of affected persons and carry out detailed measurement survey (after detailed design)	Quarter 1, Year 2
Prepare and confirm post-construction plan for market upgrades (at detail design)	Quarter 1, Year 2
Update RP and obtain ADB concurrence	Quarter 2, Year 2
Establish temporary market spaces, if needed	Quarter 3, Year 2
Start of civil works	Quarter 3, Year 2
Present compensation payment during construction based on actual losses to AHs in Kep crab market	Quarter 3, Year 2
Internal monitoring	Continuous

XII. Monitoring and Reporting

65. Monitoring and evaluation of the RP allows project owners to ensure smooth progress of RP implementation by providing a review of information on the progress of implementation of RP activities. Importantly, monitoring must also address the degree to which the resettlement activities have achieved their desired outcomes.

66. These monitoring objectives will be addressed through internal monitoring by the MOT-based PCU at the central level and the Kep DOT-based PIU. The PCU and PIU will designate Safeguards Officers, which will be responsible for internal monitoring. The National Resettlement Specialists will support the PCUs and PIUs in monitoring. The scale of resettlement does not warrant an external monitor. This requirement will be reassessed if any changes during the RP updating so warrant.

67. The role of internal monitoring and evaluation is to ensure that resettlement institutions are well functioning during the course of project implementation, and that the resettlement activities are undertaken in accordance with the implementation schedule described in the undated RP. In this way, the protection of AHs' interests and the schedule for civil works can be assured.

68. The primary responsibility for internal monitoring lies with MOT as the project executing agency. MOT will be responsible for overseeing the formation, function, and activities of the Kep DOT, and through quarterly monitoring reports, summarize this progress. All monitoring data will be collected to ensure sex and ethnicity disaggregation.

69. The indicators that will be monitored regularly are in Table 6 (as applicable, based on the DMS and updated RP).

Table 6: Monitoring and Evaluation Indicators

Type	Indicator	Examples of Indicators
Process Indicators	Consultation, Participation , and Grievance Resolution	<ul style="list-style-type: none"> • PRSC-WG established • Summary RP available at relevant Commune Offices; design plan posted in subproject area (at market) • Consultations and participation undertaken as scheduled in the RP • Grievances by type and resolution • Number of locally-based organizations participating in project
Output Indicators	Compensation and Rehabilitation	<ul style="list-style-type: none"> • Number of business owners compensated by type of loss • Amount compensated by type and owner • Number and amount of payment paid • Number of temporary mobile vendor sites established at crab market • Number of owners requesting additional assistance, if any. • Data to be disaggregated by gender

Annex 1: Minutes of Meeting – Kep Resettlement Consultations

Kep Crab Market Environmental Improvements

Province: Kep
 District: Kep City
 Sangkat: Prey Thom
 Village/s: Thmey

Objective

The PPTA consultants provided an introduction/briefing on LARC aspects to businesses/residents (restaurant owners/renter) with provincial representatives and consultant staff, along with conducting IOL in the subproject implementation area. PPTA Consultants provided information about the subproject, the expected impact on the businesses, ADB and Government of Cambodia social safeguards policies, entitlement policies and eligibility, including the cut-off date.

Date of Consultation

Date: 19 September 2013

Summary of Consultation

1. Participants:

Total	No. of female participants	No. of male participants	Main ethnic group	Minority group
26	22	4	Khmer	0

Names of participants are shown in the attached attendance list

2. Public attitudes to the project and resettlement (extract of discussed items)

Questions/Issues	Respondents											
	Male			Female								
	Yes	No	Unclear	Yes	No	Unclear						
2.1	Do you support the project?						04	0	0	22	0	0
2.2	Do you support the waste water treatment plan?						04	0	0	22	0	0
2.3	Would you agree in permanent sewer pipe passing the front of your compound restaurant?						04	0	0	22	0	0
2.4	Would you agree in temporary construction the sewer pipe in front of your restaurant compound?						04	0	0	22	0	0
Questions/Issues	Respondents											
	Male			Female								
	Yes	No	Unclear	Yes	No	Unclear						
2.5	In case private land had to be acquired by the project which compensation option would you prefer:											
	• Donation of land as your contribution to the Project						04	0	0	22	0	0
	• Land for land compensation in specific case						0	04	0	0	22	0
	• Land for land compensation in any case						0	04	0	0	22	0
	• Cash compensation for land in specific case						0	04	0	0	22	0

Questions/Issues		Respondents					
		Male			Female		
		Yes	No	Unclear	Yes	No	Unclear
	• Cash compensation for land in any case	0	04	0	0	22	0
2.6	Do you prefer conflict resolution through:						
	• Village / Commune committee	04	0	0	22	0	0
	• District committee	0	04	0	0	22	0
	• Provincial committee	0	04	0	0	22	0
	• Civil court	0	04	0	0	22	0
	• Others						
Questions/Issues		Respondents					
		Male			Female		
		Yes	No	Unclear	Yes	No	Unclear
2.8	How wide of space need to be dug?						
	• Up to 2 meters	04	0	0	22	0	0
	• More than 2 meters	0	04	0	0	22	0
2.9	When would you like the project implementation start?						
	• Rainy season (June – October)	04	0	0	22	0	0
	• Dry season (November-May)	0	04	0	0	22	0

3. Suggestions for land acquisition and relocation of structures

Suggestions
• They suggest to the project should not do the construction work at the weekend and public holiday because at that time a lot of domestic and international tourism come to visit Kep.
• They agreed to contribute for the operating and maintaining fee but they suggested not much higher than 5,000 to 10,000 Riels per month if possible.
• Concern about business losses and request for provisions to avoid business losses during construction including compensation. The priority was on managing construction properly to avoid losses. All respondents were interested to participate in further consultations.

4. Facilitators

No.	Organization
1	Kep City
2	Kep Department of Tourism
3	Crab Market Community
4	ADB/Camconsult