

**PREPARATION OF ENVIRONMENTAL AND
SOCIAL MANAGEMENT FRAMEWORK FOR
THE SOUTH EAST ASIA DISASTER RISK
MANAGEMENT (SEA DRM) PROJECT FOR
CAMBODIA**

RESETTLEMENT POLICY FRAMEWORK

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LIST OF ACRONYMS

ARAP	Abbreviated Resettlement Action Plan
BP	Bank Policy
CBO	Community Based Organizations
COI	Corridor of Impact
CSF-PIM	Commune/Sangkat Fund Project Implementation Manual
CSO	Civil Society Organizations
DIA	Designated Implementing Agency
DMS	Detailed Measurement Survey
DRFI	Disaster Risk Financing and Insurance
ESMF	Environmental and Social Management Framework
ESMP	Environmental and Social Management Plan
GDR	General Department of Resettlement
IDA	International Development Association
IOL	Inventory of Loss
IP	Indigenous Peoples
IPDP	Indigenous Peoples Development Plan
IPPF	Indigenous Peoples Planning Framework
IRC	Inter-ministerial Resettlement Committee
km	Kilometer
M&E	Monitoring and Evaluation
MEF	Ministry of Economy and Finance
MOE	Ministry of Environment
MOWRAM	Ministry of Water Resources and Meteorology
MRD	Ministry of Rural Development
NGO	Non-Governmental Organizations
NPA	Non-Profit Associations
NR	National Road
OP	Operational Policy
PAH	Project Affected Households
PAP	Project Affected Persons
PDR	People's Democratic Republic
PMO	Project Management Office
PMU	Project Management Unit
RAMP	Road Assessment Management Project
RAP	Resettlement Action Plan
RCS	Replacement Cost Study
RPF	Resettlement Policy Framework
RGC	Royal Government of Cambodia
ROW	Right of Way
RP	Resettlement Plan
SEA DRM	South East Asia Disaster Risk Management
TOR	Terms of Reference
WB	World Bank
WBG	World Bank Group

DEFINITIONS AND TERMS

Beneficiary – all persons and households from the villages who voluntarily seek to avail of and be part of the project.

Compensation – payment in cash or in kind at the replacement cost of the acquired assets for the project.

Cut-off Date – the cut-off date is defined as the date prior to which the occupation or use of the Project areas makes residents/users eligible to be categorized as project affected persons. The cut-off date for this Project will be the date of conducting public consultation with the project-affected persons before conducting inventory of loss (IOL) or the detailed measurement survey (DMS).

Displaced persons – refers to all of the people who, on account of the activities listed above, would have their (1) standard of living adversely affected; or (2) right, title, interest in any house, land (including premises, agricultural and grazing land) or any other fixed or movable asset acquired or possessed temporarily or permanently; (3) access to productive assets adversely affected, temporarily or permanently; or (4) business, occupation, work or place of residence or habitat adversely affected; and “displaced person” means any of the displaced persons.

Eligible land holders – refers to affected persons who (a) hold title to land; or (b) do not hold title but whose possession of land can be legalized with a title pursuant to the Land Law of Cambodia including those with recognizable rights.

Entitlement – range of measures comprising compensation, income restoration support, transfer assistance, income substitution, and relocation support which are due to affected people, depending on the nature of their losses, to restore their economic and social base. The entitlements adopted for the Cambodia South East Asia Disaster Risk Management (SEA DRM) sub-projects were guided by the applicable national laws and regulations and WB OP/BP 4.12. The entitlements may be further revised based on actual status of impact, if applicable, in an updated version of the Resettlement Policy Framework (RPF).

Household – means all persons living and eating together as a single social unit.

Income restoration – means re-establishing income sources and livelihoods of project-affected households to a minimum of the pre-project level.

Improvements – structures constructed (dwelling unit, fence, waiting sheds, pig pens, utilities, community facilities, stores, warehouses, etc.) and crops/plants planted by the person, household, institution, or organization.

Land acquisition – the process whereby a person involuntarily loses ownership, use of, or access to, land as a result of the project. Land acquisition can lead to a range of associated impacts, including loss of residence or other fixed assets (fences, wells, tombs, or other structures or improvements that are attached to the land).

Project Authorities – refers to the Ministry of Rural Development (MRD), the Ministry of Economy and Finance (MEF), the General Department of Resettlement (GDR) of the Ministry of Economy and Finance,) and Ministry of Environment (MOE).

Project Affected Persons (PAP) or Project Affected Households (PAH) – includes any person, households, entity, organizations, firms or private institutions who, on account of changes that result from the project will have their (i) standard of living adversely affected, (ii) right, title, or interest in any house, land (including residential, commercial, agricultural, forest, plantations, grazing, and/organizing land), water resources, fish ponds, communal fishing grounds, annual or perennial crops and trees, or any other moveable or fixed assets acquired, possessed, restricted, or otherwise adversely affected, in full or in part, permanently or temporarily; and/or (iii) business, occupation, place of work or residence, or habitat adversely affected, permanently or temporarily, with or without displacement.

Rehabilitation – refers to assistance provided to persons seriously affected due to the loss of productive assets, incomes, employment or sources of living, to supplement payment of compensation for acquired assets, in order to achieve, at a minimum, full restoration of living standards and quality of life. Compensation for assets often is not sufficient to achieve full rehabilitation.

Replacement cost – is the method of valuation of assets which determines the amount of compensation sufficient to replace lost assets, including any necessary transaction costs. Compensation at replacement cost is defined as follows: For agricultural land, it is the pre-sub-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes. For land in urban areas, it is the pre-displacement market value of land of equal size and use, with similar or improved public infrastructure facilities and services and located in vicinity of the affected land, plus the cost of any registration and transfer taxes. For houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and contractors' fees, plus the cost of any registration and transfer taxes. In determining the replacement cost, depreciation of the asset and the value of salvage materials are not taken into account, nor is the value of benefits to be derived from the project deducted from the valuation of an affected asset. Where domestic law does not meet the standard of compensation at full replacement cost, compensation under domestic law is supplemented by additional measures so as to meet the replacement cost standard. Such additional assistance is distinct from resettlement measures to be provided under other clauses in the World Bank (WB) Operational Policy (OP)/Bank Policy (BP) 4.12, Para. 6.

Resettlement – means that all measures should be taken to mitigate any and all adverse impacts of a project on PAP property and/or livelihood's, including compensation, relocation (where relevant) and rehabilitation as needed.

Vulnerable groups - are distinct groups of people who might suffer disproportionately or face the risk of being marginalized from 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) elderly households with no means of support and landlessness, and (v) indigenous minorities. The potential impact to each household will depend on their socio-economic status that will be assessed as the result of a detail socio-economic survey to be conducted prior to project implementation.

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1.0 PROJECT DESCRIPTION

The proposed South East Asia Disaster Risk Management (SEA DRM) Project is under consideration for funding by the World Bank Group (WBG or Bank) through an International Development Association (IDA) loan in three SEA countries, namely Cambodia, Lao People's Democratic Republic (PDR) and Myanmar. The goal of the proposed SEA DRM Project is to reduce the risk of flooding and enhance disaster risk financing capacity within the Lower Mekong Sub-region. The Project will allow the three aforementioned riparian countries to achieve and expand outcomes in three key areas: (i) flood risk management investments; (ii) disaster risk assessment and financing; and, (iii) a contingent emergency response component.

The overall project development objective is “help reduce the impacts of natural hazards in select provinces of the target country and to provide enhance the capacity of the target country to finance disaster response.” Each of the three SEA countries have developed a number of sub-projects which will be subject to further assessment and consideration for funding purposes.

The Project includes four components:

Component 1: Strengthening Rural Road and Community Resilience is intended to assist the Cambodia, Lao PDR and Myanmar governments to better prepare for and manage flood risks through investments in rehabilitation of critical infrastructure and support for non-structural investments for disaster and climate resilience in each of the three SEA countries.

Component 2: Disaster Risk Assessment and Financing through support for comprehensive data collection and knowledge management to support disaster risk management information systems in aid of financial protection strategies and modelling.

Component 3: Project Management to support the day-to-day implementation of the project.

Component 4: Contingent Emergency Response Component to support rapid response following a Government-declared crisis or emergency.

The project development objective for Cambodia is “to help reduce the impacts of natural hazards in select provinces of Cambodia and to provide enhance the capacity of Cambodia to finance disaster response.” The sub-projects will promote an integrated approach to DRM through a combination of engineered and non-engineered risk reduction investments. In the rural roads sector, it will help introduce the concept of resilient corridors which combines physical investments with community preparedness. In the realm of financial protection, it will help devise a comprehensive approach to Disaster Risk Financing and Insurance (DRFI) and develop a solution on a regional scale where Cambodia will participate in a regional risk pooling mechanism joined by Lao PDR and Myanmar.

The Cambodia Project will finance only rehabilitation and repair of existing roads and is classified as a Category “B” project for environmental purposes. As Myanmar is included in the proposed SEA DRM Project and its impacts are largely unknown, the project outside of Cambodia may be classified as a different category for environmental assessment purposes and, as such, must be guided by Bank safeguards policies (OP/BP 4.01). Based on the initial consultations with the recipients regarding possible investments, the project will trigger the following two WB social safeguards policies: *Indigenous Peoples* (OP/Bank Policy (BP) 4.10) and *Involuntary Resettlement* (OP/BP 4.12) as well as the following three WB environmental safeguard policies: *Environmental Assessment* (OP/BP 4.01), *Natural Habitats* (OP/BP 4.04), and *Physical Cultural Resources* (OP/BP 4.11).

For purposes of the present consultancy, only Component 1: Strengthening Rural Road and Community Resilience comprises investments in rehabilitation of critical infrastructure and support for non-structural investments in disaster and climate resilience. The Royal Government of Cambodia (RGC) Ministry of Economy and Finance (MEF) advised that infrastructure investments should focus on *Sub-component 1.1 Resilient Rural Road Rehabilitation and Upgrading* including road strengthening in six highly flood-prone provinces along the Mekong and Tonlé Sap basins, namely, Steung Treng, Kratié, Kampong Cham, Tboung Khmum, Siem Reap and Kandal. High-impact investments will be selected using a set of criteria, including: (i) flood risk (road exposure and vulnerability); (ii) disaster preparedness connectivity (evacuation route and connection with safe areas on higher ground); (iii) population served (2 kilometers [km] either side of road, disaggregated by income group and gender); (iv) connectivity with schools and health centers; (v) economic connectivity (markets along road) and (vi) viability (cost of road strengthening)¹.

The MRD proposed sub-projects involving roadworks repair and rehabilitation are not expected to require major physical relocation. Experience from other civil engineering and roadworks repair and rehabilitation projects in Cambodia suggests that no major relocation or resettlement would be required as infrastructure works would be implemented in the road right of way (ROW) and, for the most part, within the existing road footprint. Road maintenance and re-habilitation activities may require the relocation of temporary structures, temporary occupation of plots or temporary and/or seasonal damage to crops and trees along the roadway that will be disturbed temporarily. Additionally, there could be minor infrastructure impacts because of the use of areas for borrow pits, improved roadside ditches and drainage areas, and waste disposal sites resulting in low-level impacts to parcels of land and possibly some buildings.

No physical resettlement would be required nor would different populations (i.e., ethnic minorities and vulnerable groups – women and female/male youth and children, men, the elderly and disabled, etc.) be adversely impacted by the proposed sub-projects' roadwork. Although there is no expectation for involuntary resettlement, it is possible that temporary relocation is required or even voluntary land donations will be considered. In this case, a RPF is developed to guide the terms of reference for the subsequent design and feasibility studies. At the design and feasibility stage, more extensive baseline information will be obtained to guide decision making at project appraisal.

2.0 PRINCIPLES GOVERNING RESETTLEMENT

This RPF has been prepared as part of the Environmental and Social Management Framework (ESMF) for the Cambodia Project to provide guidance to decision-makers in situations where a proposed sub-project may require the use of land on a temporary or permanent basis and/or voluntary land donations. Accordingly, the RPF has been prepared to set out the policies and procedures for preventing or mitigating adverse impacts related to involuntary land acquisition and resettlement as a result of a proposed sub-projects. This RPF set also the process that need to be duly implemented regarding voluntary donation.

The purpose of the resettlement policy is to ensure that all people affected by the project are able to maintain or improve their pre-project living standards. The objective of the RPF is to minimize involuntary resettlement and to provide a framework for assessing concerns of PAP and PAH who

¹ Criteria revised as per Cambodia DRM Preparation Mission, August 8-12, 2016 Draft Aide Memoire for discussion.

may be subject to loss of land, assets, livelihoods and well-being or living standards because of the proposed sub-projects.

The World Bank *Involuntary Resettlement* (OP/BP 4.12) policy is triggered when two related processes occur. In the first instance, a development project (sub-project) may cause people to lose land, other assets, or access to resources which may cause disruption to, or loss of, livelihood (i.e., property and assets), well-being and/or other entitlements. In the second instance, if relocation and resettlement is warranted, it may affect PAP positively as their situation may improve, or at least be restored to the levels that existed at sub-project commencement. The RPF provides decision-makers with guidelines and processes for ensuring that PAP will improve their livelihoods and well-being or, at least, to restore them to levels prevailing at project commencement.

The RPF details the instruments and plans, and actions and measures to be taken during initial stages of sub-project design and prior to feasibility and subsequent implementation. The RPF establishes guidelines for determining land loss eligibility and includes a description of what a voluntary land contribution might entail. However, as the Cambodian sub-projects are in the planning stages and a definitive decision has not been made by the RGC and the WB about which road sections will be funded, the RPF does not have comprehensive baseline information to define detailed compensation packages. These determinations can be completed at the Abbreviated Resettlement Action Plan (ARAP) or Resettlement Action Plan (RAP) stage of project implementation when more comprehensive and up-to-date sub-project information is available.

The RPF will be considered applicable if proposed sub-project initiatives affect households and communities which may be displaced, even on a temporary basis. Situations which may be subject to land acquisition or relocation of PAP and PAH involve physical works, such as repair and rehabilitation of roads, or site changes of existing infrastructure. In these situations, screening typologies will help decision-makers determine the safeguards measures for avoiding or mitigating adverse effects.

Most aspects of the WB *Involuntary Resettlement* (OP/BP 4.12) policy are adequately addressed in Cambodian laws and regulations. The overarching objective of the sub-project in relation to land and asset acquisition is to assist the PAP in restoring their livelihoods at least to the level equal to their pre-project level. Specific principles that apply include:

- (i) Rehabilitate the road to avoid residential areas wherever possible to minimize physical relocation of people, and select alignments that minimize acquisition of privately or publicly held productive land;
- (ii) Ensure design standards minimize the need to impose land use restrictions on adjoining areas;
- (iii) Develop fair and transparent procedures, as defined in the Entitlement Matrix of this RPF to determine compensation for (i) temporary loss of land and/or assets during construction or rehabilitation; (ii) permanent acquisition of land and/or assets; and (iii) restrictions on use of land that may be applied to areas adjoining the alignment and ROW;
- (iv) Acquire land (or right to use land) through negotiated agreements and with the use of the power of eminent domain only as a last resort;

- (v) Upon completion of rehabilitation or repair, restore land as best as possible to its original condition in the event of temporary disruption so as to enable landowners/users/lessees to resume their pre-sub-project activities;
- (vi) Keep PAP, PAH, and communities fully informed about the sub-project(s), the process that will be followed to acquire and compensate for land, and their related rights and avenues for redress;
- (vii) Ensure that aggrieved PAP and PAH will have redress and recourse options and that solutions are in line with principles stipulated in this RPF and, importantly, are employed;
- (viii) All PAP and PAH, without regard to legal status of property, will receive support of various kinds, as per the principles set out in the Entitlement Matrix, to assist them in their efforts to maintain their livelihoods and well-being prevailing prior to the sub-project. Squatters will not be compensated for loss of land but will receive compensation for loss of other assets which had been established prior to the cut-off date with their own finances, and for loss of income such that they are assisted in their efforts to maintain their livelihoods and well-being. Detailed measures to be implemented will be determined based on a corridor of impact (COI) census and socio-economic baseline survey conducted when the ARAP/RAP is developed;
- (ix) PAP and PAH will be notified of the sub-project implementation schedule and consulted regarding the principles of land acquisition and loss of or damage to assets; and
- (x) Damages to assets, such as standing crops, trees, fences and kiosks, and loss of income (including loss of harvest) will be minimized, however inevitable, and will be compensated without regard to legal status of ownership according to the Entitlement Matrix illustrated in Table 3.

3.0 RESETTLEMENT PROCESS AND APPROVAL

World Bank environmental and social safeguards policies require the borrower country (Cambodia) to prepare an ESMF and RPF consistent with RGC laws and WP OP/BP4.12. These safeguards documents must be prepared, publicly disclosed with free, prior and informed consultation undertaken to ensure proposed sub-project impacts (positive or adverse effects) are discussed before project appraisal. Once the specific proposed sub-project locations are known, then an ARAP or RAP can be prepared as part of project implementation but before any roadworks are undertaken. An ARAP is developed when a sub-project affects less than 200 people in terms of loss of assets, incomes, employment or business. However, a more extensive RAP is conducted when a sub-project will affect more than 200 people.

The RPF is focused on providing the necessary guidelines for the development of site-specific ARAP/RAPs (OP/BP 4.12) during proposed sub-project implementation. As previously noted, involuntary resettlement is not expected to occur as a result of the proposed sub-projects. However, land acquisition on a temporary or permanent basis may occur and, in this case, the RGC National Law on Expropriation (2010) and the Bank safeguards policy (OP/BP 4.12) requires that an ARAP or RAP (hitherto referred to as Resettlement Plan [RP]) be developed to guide implementation.

The MRD in association with relevant ministries such as the -GDR of the MEF (secretariat of the Inter-Ministerial Resettlement Committee) and MOE provides the general direction for the planning of the relocation and acquisition process, ensures coordination between various stakeholders concerned

with the sub-projects including those directly connected with relocation and monitoring implementation. At commencement of sub-projects, stakeholders will be consulted to establish planning principles and work arrangements aimed at identifying and mitigating adverse social impacts induced by the sub-project(s) initiatives and/or activities. The RP will obtain information through baseline surveys, valuation of properties, and a determination regarding compensation, whether in the context of temporary or permanent relocation and compensation or in the context of mitigating other sub-project related social impacts.

The RP preparation must include the following precepts for PAP and PAH so that they are:

- Informed about their options and rights pertaining to relocation and compensation;
- Consulted on, offered choices among, and provided with technically and economically feasible relocation and/or compensation alternatives; and
- Provided prompt and effective compensation at full replacement cost for losses of assets and access which are attributable to the sub-project(s).

Adequate public consultation and participation are mandatory requirements of the RP process. In addition, PAP and PAH must be made aware of:

- Their options and rights pertaining to land donation, relocation and/or compensation;
- Specific technically and economically feasible options and alternatives for relocation or resettlement sites;
- Process of and proposed dates for relocation, resettlement and/or compensation;
- Effective compensation rates at full replacement costs for loss of assets and services; and
- Proposed measures and costs to maintain or improve their standards of living and well-being.

As the designated implementing agency (DIA), the MRD will have one Resettlement Specialist to work alongside the Project Management Unit (PMU) team. Among other duties, the role of the Resettlement Specialist would be to monitor implementation of both the RPF and site-specific (i.e., RPs so as to ensure that appropriate actions are addressed in relation to potential voluntary land contribution, relocation and/or resettlement issues. Upon approval of the RPF, potential social impacts for each sub-project and/or activity that requires land acquisition (including land donation), relocation or resettlement will be addressed. It is important to use a participatory approach to engage stakeholders, civil society organizations (CSO) and PAP and PAH so as to ensure broad acceptance of the RP.

A screening and review process should be used for land contribution, relocation or resettlement, and a voluntary land contribution planning process, if applicable. The main purpose of utilizing a screening and review process is to identify land donations, relocation or resettlement, and/or other issues associated with proposed sub-projects and/or activities in their respective footprint. For optimum planning, screening should take place during the initial stages of the RPF process so that the Resettlement Specialist is well-informed to develop the RP. The RP requires site-specific comprehensive information to identify the following parameters:

- Persons who will be affected (positively and adversely) by the sub-projects;
- Persons eligible for compensation and/or assistance; and

- Type of land contribution and assistance and/or assistance required.

Following completion, the RP will be submitted to IRC for approval following which, it will be forwarded to the World Bank.

The ARAP includes the following information: (i) brief description of the sub-projects, location and their impacts; (ii) consultation with PAP and PAH; (iii) baseline information of PAP and PAH; (iv) category of PAP and PAH by degree and type of impacts; (v) entitlement for compensation, allowances and rehabilitation or restoration assistance by category of impacts in a compensation matrix; (vi) information on relocation site, where applicable; (vii) institutional responsibilities for implementation and monitoring; (viii) grievance redress procedures; (ix) estimated cost of resettlement and yearly budget; and (x) time-bound plan for implementation.

A sub-project that affects more than 200 people in terms of loss of assets and livelihoods requires a RAP to be conducted. Typically, the RAP would include the following: (i) brief description of the sub-projects, location and their impacts; (ii) principles and objectives governing resettlement preparation and implementation; (iii) legal framework; (iv) baseline information of PAP and PAH; (v) category of PAP and PAH by degree and type of impact(s); (vi) entitlement to compensation, allowances, and rehabilitation or restoration assistance by category of impacts in a compensation matrix; (vii) information on relocation site together with socio-economic conditions on the secondary PAP and PAH and host communities; (viii) institutional arrangement for planning and implementation; (ix) participatory procedures during planning and implementation; (x) grievance redress procedures; (xi) estimated cost of resettlement and annual budget; (xii) time-bound action plan for implementation; and (xiii) internal and external monitoring procedures, including the terms of reference (TOR) for external monitoring and evaluation.

Appendix A1 provides Resettlement formats including annotated ARAP and RAP documents.

4.0 CATEGORIES OF DISPLACED PERSONS

The Cambodia sub-projects will have both positive and adverse (negative) impacts on people in each of the six provinces where roadworks are under consideration. It is reasonable to presume that households, commercial enterprises and public infrastructure (e.g., schools, health clinics' boundary fences) whose properties encroach on the road alignment and ROW will potentially be affected adversely, if only in a minor way.

It is reasonable to assume that while the proposed sub-projects will have positive impacts on a large majority of the population, only a limited number of persons are likely to be negatively impacted by certain activities related to the implementation of the proposed sub-projects. The issue of concern here is to provide an estimation of the latter and the likely categories of displaced persons. However, as the COI where the respective activities are to be located are currently unknown,, providing a reasonable estimate of such persons or, who would be directly or indirectly affected for inclusion in the RPF cannot be provided at this stage. This determination would need to be conducted once the sub-projects location and extent are identified and prior to sub-project implementation.

Once the sub-project locations are known and land acquisition or any associated impacts are identified, resettlement planning should begin. A census survey to identify and enumerate all PAPs, and a socio-economic survey to determine the range and scope of impacts in the affected area will be carried out the IRC working group in close coordination with the MRD and the provincial resettlement

sub-committee working group during the implementation stage. The census survey must cover 100 percent of the persons to be displaced; whereas, the socio-economic survey may be undertaken on a random sample basis. The surveys, which may be undertaken separately or simultaneously, determine whether a RAP or ARAP is necessary.

Although all of the activities have the potential to affect all categories of people in the respective locations (whether categorized by race, religion, ethnicity, gender, age, economic status, land tenure or other), only the activities that require relocation either on a temporary or permanent basis are considered to have the potential of causing serious displacement problems. The RPF recognizes that certain social groups may be less able to restore their living conditions, livelihoods and income levels; and therefore, are at greater risk of impoverishment when their land and other assets are affected. During the RAP social assessment, the sub-project will identify any specific needs or concerns that need to be considered for the vulnerable groups such as landless, poor, and households headed by women, disabled, elderly or children without means of support. The vulnerability of each group will be identified and assessed during the socioeconomic survey. Gender integration will be considered during the planning and implementation of the ESMF, RPF, and Indigenous Peoples Planning Framework (IPPF) processes.

5.0 DISPLACED PERSONS' ELIGIBILITY CRITERIA

All PAP and PAH comprised of different populations (i.e., ethnic minorities and vulnerable groups, etc.) will be provided with compensation and/or assistance if: (i) their land area is reduced less than 10 percent of their total properties; (ii) income source is adversely affected; (iii) houses partially or fully demolished; and (iv) other assets (i.e., crops, trees, and facilities) or access to these properties will be reduced or damaged due to land acquisition. Lack of legal documents of their customary rights or occupancy certificates will not affect their eligibility for compensation.

Displaced persons may be classified in one of the following three groups:

- a) Those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country); will be entitled to compensation for the land they lose, all assets affixed to the land, as well as income restoration measures;
- b) Those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets—provided that such claims are recognized under the laws of the country or become recognized through a process identified in the resettlement plan will be entitled to compensation for the land they lose, all assets affixed to the land, as well as income restoration measures; and
- c) Those who have no recognizable legal right or claim to the land they are occupying, will be entitled to all assets affixed to the land, as well as income restoration measures. In cases where the remaining portion of land is no longer viable they will be entitled to a replacement plot.

Persons covered under a) and b) are provided compensation for the land they lose, and other assistance in accordance with para. 6. Persons covered under c) are provided resettlement assistance in lieu of compensation for the land they occupy, and other assistance, as necessary, to achieve the objectives set out in this policy, if they occupy the sub-project area prior to a cut-off date established by the borrower and acceptable to the Bank.

Two forms of acquisition of land will be considered under the sub-project including:

- **Voluntary Land Contributions:** will be accepted as long as the free, prior and informed consultation process is adhered to and if the situation is well documented by local authorities. As such, PAP and PAH have the right to make a contribution of land or other assets of their own volition without seeking or being given any form of compensation. These situations can be justified because the proposed sub-projects will likely directly benefit the PAP and PAH. Voluntary contributions of land is not allowed if impacts is greater than 10% of the total land area or productive assets.
- **Involuntary Land Acquisition and Resettlement:** persons who contribute land or other assets have the right to seek and receive compensation². In such cases, the sub-project authorities will ensure that compensation terms based on this RPF are agreed to before roadworks are undertaken.

This RPF applies to all proposed sub-project roadworks in Cambodia under the SEA DRM Project funded by the Bank. The policy applies to all PAP regardless of the number or the severity of the induced impact.

As mentioned, particular attention is to be given to the needs of different populations, including ethnic minorities and vulnerable groups.

6.0 LEGAL FRAMEWORK ASSESSMENT

Significant social and environmental impacts are not anticipated from the sub-projects as the proposed road sections are regularly subject to repair and rehabilitation works and the existing roadway alignment/footprint and ROW width will be maintained. However, the roadworks' rehabilitation feasibility studies will be guided by safeguards documents prepared in line with applicable national laws, including:

- Law on Environmental Protection and Natural Resources Management (1996);
- Land Law (2001);
- Law on Protected Area Management (2008);
- Law on Biosafety (2008);
- National Law on Expropriation (2010);
- Sub-Decree on Social Land Concession (2003);
- Sub-Decree on EIA Process (1999)
- Circular No. 02 (2007);
- **Sub-Decree No. 19 ANK/BK on Social Land Concession (March 2003)** provides for allocations of free private state land to landless people for residential or family farming, including the replacement of land lost in the context of involuntary resettlement;

² The World Bank sub-project financing cannot be, and will not be, used to pay compensation in any shape or form.

- **Sech Kdey Prakas No.6**, entitled “Measures to Crack down on Anarchic Land Grabbing and Encroachments”, sets ROW for road and railway. In support of this *Sech Kdey 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 management of ROW along the national road (NR) and railway in Cambodia. Table 1 illustrates criteria for determining ROW;
- Ministry of Economy and Finance (MEF) Circular No. 006 (2014);
- **Circular No. 02** dated on February 26th, 2007 stated clearly that (i) illegal occupants of state land have no right to compensation and can be punished in accordance to the land law 2001; and (ii) illegal occupants who are poor, landless, and belong to a vulnerable group can be provided a plot of land; and
- **MEF Circular No.006** on the Resettlement Implementation Procedure for development projects dated on April 2nd, 2014. This new circular instructed clearly the administrative management and roles/responsibilities of relevant implementing agencies and provinces in implementing the resettlement for development projects.

Table 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 meters (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	30 m from the centreline	30 m from the centreline
Railways in forest area	100 m from the centreline	from the centreline

The Constitution of Cambodia has provisions for land acquisition for public purposes. Article 44 states that “right to confiscate properties from any person shall be exercised only in the public interest as provided by law and shall require fair and just compensation in advance”. Article 44 of the Constitution underlines the importance of providing “*fair and just*” compensation for cases when land acquisition is necessary. Some protection for vulnerable groups is also specified in Article 73: “*The State shall give full consideration to children and mothers. The State shall establish nurseries, and help support women and children who have inadequate support*” and Article 74: “*The State shall assist the disabled and the families of combatants who sacrificed their lives for the nation*”.

The World Bank states that economic development requires, to varying degrees, providing infrastructure and facilities that improve livelihoods and well-being through the expansion of economic opportunities. The Bank investment projects must pass the litmus test of its own environment and social safeguards policies and the borrower country for a sub-project to receive funding. These safeguards policies help decision-makers to identify, avoid, minimize or mitigate harms to people and their environment. The Bank safeguards policies also require borrower governments to address

specific environmental and social risks as a prerequisite to obtaining Bank financing for development projects.

A number of short stretches of roadworks in six provinces of Cambodia with little or no precise detail of the final or definitive short list characterizes the sub-projects at present. The ESMF provides an overarching safeguards document governing the approach, processes and specific instruments to guide and inform the ESMP, RP and IPDP, and other safeguard instruments and measures (if applicable) during sub-project design and feasibility studies.

The 2010 Law on Expropriation provides principles, mechanisms, and procedures of expropriation, and defines fair and just compensation for any construction, rehabilitation, and public physical infrastructure expansion project for the public and national interests and development of Cambodia. The Law on Expropriation (2010) is largely consistent with the main principles of the Bank's *Involuntary Resettlement* (OP/BP 4.12) policy. It will be adopted by the Cambodia sub-project for required appropriation of ownership of immovable property or the real right to immovable property of a physical person or legal entity or legal public entity, which includes land, buildings, and cultivated plants, and for construction, for rehabilitation or for expansion of public physical infrastructure.

However, there are some gaps in the national Law on Expropriation (2010) as compared to the Bank's policy on *Involuntary Resettlement* (OP/BP 4.12), including:

- The Law on Expropriation (2010) provides principles, mechanisms and procedures of expropriation, and defining fair and just compensation for any construction, rehabilitation, and/or public physical infrastructure expansion project in the public and national interest of Cambodia;
- The Law on Expropriation (2010) does not detail processes and procedures of resettlement induced by public physical infrastructure expansion projects, land acquisition, voluntary land and asset donation, and post-relocation support;
- No specific measures to support different populations (i.e., ethnic minorities and vulnerable groups) of PAP and PAH are articulated in the law. The Law on Expropriation (2010) outlines a complaint and dispute resolution mechanism for PAP and PAH under Chapter 3: Expropriation Mechanism and Chapter 4: Expropriation Procedures; and
- No provisions are outlined in the Law on Expropriation (2010) for monitoring or public disclosure requirements.

Table 2 analyzes the gaps between the national legal and regulatory framework and the requirements of OP 4.12.

Table 2 Gap analysis between the RGC legal/regulatory framework and the World Bank OP4.12.

Subjects	OP 4.12	RGC	Gap/Project Measures
1. Land Property			
<p><i>1.1. Policy objectives</i></p>	<p><i>PAPs (Project Affected Persons) should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher</i></p>	<p>The Expropriation Law aims to i) Ensure just and fair deprivation of legal rights to private property; ii) Ensure a fair and just compensation in advance; iii) Serve the national and public interest, and iv) Develop public physical infrastructures (Article 2).</p> <p>Sub-degree on social land concession provide allocation for free state land to landless people of residential or farming purpose, including the replacement of land lost in the context of involuntary resettlement.</p> <p>Resettlement practice:</p> <ul style="list-style-type: none"> ▪ Provide income restoration program for all relocated PAPs and for on-site severely PAPs and vulnerable PAPs. ▪ Provide living allowance ▪ Special assistance to vulnerable PAPs 	<p>OP 4.12 Policy Procedures will be applied - cash compensation at replacement cost for land and structures will be paid without deduction for depreciation or salvageable materials.</p> <p>Also – income additional payments will be made to restore incomes, crops, trees as well as moving costs.</p>
<p><i>1.2. Support for affected households who have no recognizable legal right or claim to the land they are occupying</i></p>	<p><i>Financial assistance to all project affected persons to achieve the policy objective (to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher)</i></p>	<p>Article 19 [Land Law]: "...any illegal and intentional or deceitful acquisition of the public domain of the State or public legal entity shall be punished..."</p> <p>Article 23 [Expropriation Law]: " The owner and/or the rightful owner has the right to compensation for actual damages commencing from the last date of declaration of expropriation (cut-off date) for which they are entitled to fair and just compensation.</p> <p>Resettlement practice:</p> <ul style="list-style-type: none"> ▪ No compensation for losing productive land located 	<p>Financial assistance to all project affected persons to achieve the policy objective (to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher)</p> <p>Vulnerable PAPs will receive special assistance.</p>

		<p>in the public land.</p> <ul style="list-style-type: none"> Those who become landless by the project will receive a plot of residential land (7 m x 15 m = 105 m²) in the village or village nearby or at relocation site with provision of access road, intra road network, water and electricity network (if locally available), and individual household latrine. Special assistance to vulnerable PAPs. 	OP 4.12 Policy Procedures will be applied.
1.3. Compensation for illegal structures	Compensation at full cost for all structures regardless of legal status of the PAP's land and structure.	<p>The RGC will not spend national budget to make payments for structures or other items located on the RGC claimed rights of way, i.e. ROW for roads and railroads. (MEF Decision No. 961).</p> <p>However in real resettlement practice the RGC agreed to provide compensation for such illegal structures at replacement cost without deduction or depreciation of salvage materials plus transport allowance.</p>	<p>Compensation at full replacement cost will be given for all structures affected, regardless of legal status of the land and structure.</p> <p>Provide moving allowance based on structure types.</p> <p>OP 4.12 Policy Procedures will be applied.</p>
2. Compensation			
2.1. Methods for determining compensation rates	Compensation for lost land and other assets should be paid at full replacement costs,	Article 22 [Expropriation Law]: "Financial compensation given to the property owner and/or rightful owner shall be based on a market price or replacement price on the date of declaration of the expropriation. The market price or the replacement price shall be determined by an independent committee or agent selected by the Expropriation Committee."	<p>Independent appraiser conducts replacement cost study for all types of assets affected in order to establish compensation rate, which are appraised by IRC/GDR to ensure full replacement costs.</p> <p>OP 4.12 Policy Procedures will be applied</p>
2.2. Compensation for loss of income sources or means of livelihood	Loss of income sources should be compensated (whether or not the affected persons must move to another location)	<p>Article 29 [Expropriation Law]:</p> <ul style="list-style-type: none"> A lessee who is holding a proper lease agreement is entitled to compensation for disruptions arising from dismantling equipment and transporting it to a relocation site. The immovable property's lessee who is operating a 	OP 4.12 Policy Procedures will be applied – loss of income will be restored to pre-displacement rates regardless of the legal status of the affected person

		<p>business shall have access to compensation for effects on the business and to just and fair additional compensation for the capital actually invested for the business operation. The compensation shall commence from the date of the declaration on an expropriation project.</p> <ul style="list-style-type: none"> For the expropriation of a location where a business is in operation, the owner is entitled to support of additional compensation at a fair and just rate for the cost of the property that is actually affected, commencing from the date of the declaration of the expropriation. <p>In resettlement practice owners of relocating shop will receive one-time cash assistance and renter will receive i) transport allowance, ii) disruption allowance, and iii) rental allowance.</p>	
2.4. Livelihood restoration and assistance	<i>Provision of livelihood restoration and assistance to achieve the policy objectives.</i>	The government has no clear policy in this regard. However, income restoration program is provided under the multilateral funded projects. TOR is included in RAP and contracted agency is carried out the IRP under supervision of IRC.	Because the impacts are expected to be minor Income restoration will be addressed on a case by case basis, with additional payments being made to restore incomes and livelihoods to pre-displacement rates.
2.5. Consultation and disclosure	<i>Participation in planning and implementation, specially confirming the eligibility criteria for compensation and assistance, and access to Grievances Redress Mechanisms</i>	Article 16 [Expropriation Law]: In conducting this survey, the Expropriation Committee shall arrange a public consultation with the authorities at capital, provincial, municipal, district, khan levels, and with the commune and Sangkat councils and village representatives or the communities affected by the expropriation in order to give them clear and specific information and to have opinions from all concerned parties about the proposal for a public physical infrastructure project.	Extensive consultation and participation will be conducted at every stage of RAP planning and implementation. OP 4.12 Policy Procedures will be applied
3. Grievance Redress Mechanism			
<i>Procedures for recording and processing</i>	<i>Grievance redress mechanism should be under Government Officials Responsibilities for handling grievances with clear</i>	Grievance redress mechanism is stated in the Expropriation Law but it has provision to exclude public infrastructure projects.	Grievances from PAP and PAHs in connection with the implementation of the RP will be handled through negotiation with the aim of achieving

<i>grievances</i>	<i>procedures for recording and processing grievances</i>	In resettlement practice every project that involve involuntary resettlement Grievance Redress Committee is established from commune to provincial level.	consensus. Complaints will go through three stages before they may be elevated to a court of law as a last resort.
4. Monitoring & Evaluation			
	<i>Internal and external independent monitoring are required</i>	Not included	The PMU in close coordination with GDR-IRC will conduct internal monitoring on resettlement implementation. The monitoring will include progress reports, status of the RP implementation, information on location and numbers of people affected, compensation amounts paid by item, and assistance provided to PAHs. The report of monitoring results will be prepared by MRD and submitted to IRC and WB on a quarterly basis.

7.0 ASSET VALUATION

The sub-projects may impact PAP directly or indirectly and it may not be possible to eliminate the need for acquisition of land. Although involuntary resettlement is not expected during proposed sub-project implementation, it is possible that local communities and households elect to make a voluntary contribution of affected land without compensation. In this case, the sub-project must address the issue of voluntary donation. This would only be acceptable only when benefits to PAP households can be assured, and if the impact is less than 5% of the total land area. The process of consultation with potential contributors should be conducted in an open and transparent manner with decisions regarding voluntary contributions based on free, prior and informed consultation by PAP households. Local authorities must document the consultation process and agreement as part of the roadworks package.

It is possible that IP can be affected directly or indirectly by the proposed sub-project roadworks. In this case, an IPPF is prepared as a separate guiding document. Where IPs are affected directly or indirectly by the proposed sub-projects, then necessary safeguards instruments and measures will guide the sub-project design and feasibility studies prior to project appraisal. Accordingly, the consultation process and any planned avoidance or mitigation measures must be documented. If IPs are adversely affected by sub-projects resulting in land acquisition or, other induced negative impacts (i.e., loss of livelihood, assets, well-being and/or entitlements, etc.) then, the IPPF would discuss these direct or indirect effects in detail and provide guidance for the development of social safeguards instruments and measures (Table 3). The RPF provides guidance on land acquisition and other assets (i.e., disruption or loss of livelihood and income).

Table 3 Entitlement Matrix.

TYPE OF LOSS	ELIGIBLE PERSONS	ENTITLEMENTS	IMPLEMENTATION ISSUES
<i>A. LOSS OF LAND</i>			
<i>OUTSIDE ROW (PRIVATE LAND)</i>			
I. Loss of Land; Either Partial or Entire Land is Lost	<ul style="list-style-type: none"> ▪ All PAH with recognized proof of ownership whose land will be acquired. 	<ul style="list-style-type: none"> ▪ Cash compensation at replacement cost. ▪ Voluntary land contribution is acceptable when the voluntary conditions are met and if the impact is smaller than 5% of the total land. 	<ul style="list-style-type: none"> ▪ PAH to be notified at least <u>30 days</u> in advance before the start of civil works in the locality of the actual date that the land will be acquired by the project. ▪ Inter-ministerial Resettlement Committee (IRC) will ensure payment of all compensation for which PAH are entitled to at least <u>30 days</u> prior to the commencement of civil works.
<i>INSIDE ROW (PUBLIC STATE LAND)</i>			
I. Partial Loss of Residential and/or Commercial Land, in which the remaining land is STILL VIABLE for continued use	<ul style="list-style-type: none"> ▪ PAH with main house and/or small shop (independent/family-owned business) 	<ul style="list-style-type: none"> ▪ PAH will be compensated for any structures or improvements made to land within the ROH. 	<ul style="list-style-type: none"> ▪ PAH to be notified at least <u>30 days</u> in advance before the start of civil works in the locality of the actual date that the land will be acquired by the project. ▪ Remaining ROW is still public state land. ▪ All new structures will not be compensated if needed for further development in the future.
II. Entire Loss of Residential or the remaining land is NOT VIABLE ³ for continued use (Landless PAH)	<ul style="list-style-type: none"> ▪ PAH who are poor, landless and vulnerable and with main house affected by the project. 	<ul style="list-style-type: none"> ▪ Land for land replacement in a resettlement site with basic infrastructures will be provided by RGC. A land plot will be 7.0m x 15.0m = 105.0m² per landless PAH. ▪ the PAP will be given material assistance (seeds, agricultural equipment etc..) to improve the productivity of the new land plot. ▪ Land title for the land plot in the resettlement site with names of husband and wife will be provided to each household after five consecutive years of living on the land. 	<ul style="list-style-type: none"> ▪ PAH to be notified at least <u>30 days</u> in advance before the start of civil works in the locality of the actual date that the land will be acquired by the project. ▪ Remaining ROW is still public state land.

³ The size of viable land will be discussed between IRC-WG and the PAH during the detailed measurement survey (DMS).

Table 3 (Cont'd.)

TYPE OF LOSS	ELIGIBLE PERSONS	ENTITLEMENTS	IMPLEMENTATION ISSUES
B. LOSS OF STRUCTURES			
I. Loss of Houses or Shop/Store; Either Partial or Entire Structure is Lost	<ul style="list-style-type: none"> All the PAH (regardless of legal status) confirmed to be residing in, doing business within the project affected area before and on the Cut-off Date. 	<ul style="list-style-type: none"> Cash compensation at replacement cost without deduction for depreciation or salvageable materials. 	<ul style="list-style-type: none"> PAH to be notified at least <u>30 days</u> in advance before the start of civil works in the locality of the actual date that the land will be acquired by the project. PAH to get cash compensation at least <u>30 days</u> ahead of civil works in the locality to allow the PAH sufficient time to gradually reorganize the house and/or shop, thereby avoiding any disruption in their livelihood. PAH must completely cut, move back or move their houses/structures out of COI within <u>30 days</u> after receiving compensation. If the remaining structure is found no longer viable for living, compensation will be paid for the entire structure.
II. Other Structures (porch, extended eaves, spirit house, fence, etc.)	<ul style="list-style-type: none"> All the PAH (regardless of legal status) confirmed to be residing in, doing business within the project affected area before or on the Cut-off Date. 	<ul style="list-style-type: none"> Cash compensation at replacement cost without deduction for depreciation or salvageable materials. 	<ul style="list-style-type: none"> PAH to be notified at least <u>30 days</u> in advance before the start of civil works in the locality of the actual date that the land will be acquired by the project. IRC will ensure payment of all allowances for which PAH are entitled to at least <u>30 days</u> prior to the scheduled start of civil works.
Loss of income	All the PAH or PAP (regardless of legal status) confirmed to be doing business within the project affected area before or on the Cut-off Date.	<ul style="list-style-type: none"> Cash compensation for income lost during the period of business interruption. 	<ul style="list-style-type: none"> PAH to get cash compensation at least <u>30 days</u> ahead of civil works to avoid any income disruption in their livelihood.
Moving costs	All the PAH (regardless of legal status) confirmed to be residing in, doing business within the project affected area before or on the Cut-off Date.	<ul style="list-style-type: none"> Cash compensation to assist PAH or PAP to move their possession to another location if necessary. 	<ul style="list-style-type: none"> PAH to get cash compensation within <u>30 days</u> after receiving compensation.
C. LOSS OF CROPS AND TREES			

Table 3 (Cont'd.)

TYPE OF LOSS	ELIGIBLE PERSONS	ENTITLEMENTS	IMPLEMENTATION ISSUES
C. LOSS OF CROPS AND TREES			
I. Loss of Crops	<ul style="list-style-type: none"> ▪ Owners of crops regardless of land tenure status 	<ul style="list-style-type: none"> ▪ To the extent possible, PAH will be allowed to harvest their annual and perennial crops prior to construction. ▪ If crops cannot be harvested due to construction schedule, PAH are entitled to cash compensation for the affected crops at replacement cost. 	<ul style="list-style-type: none"> ▪ Annual Crops – PAH will be given <u>90 days</u>' notice that the land on which their crops are planted will be used by the project and that they must harvest their crops before the civil work. ▪ Remaining ROW is still public state land.
II. Loss of Fruit or Shade Trees	<ul style="list-style-type: none"> ▪ Owners of trees regardless of land tenure status 	<ul style="list-style-type: none"> ▪ Fruit trees will be compensated in cash at replacement cost. 	<ul style="list-style-type: none"> ▪ PAH to be notified at least <u>90 days</u> in advance before the start of civil works in the locality of the actual date that the land will be acquired by the project. ▪ Remaining ROW is still public state land.
D. LOSS OF COMMON PROPERTY RESOURCES			
I. Partial or Entire Loss of Community and/or Public Assets	<ul style="list-style-type: none"> ▪ Affected communities or concerned government agencies who own the assets 	<ul style="list-style-type: none"> ▪ Replacement by similar structures and quality at the area identified in consultation with affected communities and relevant authorities. 	<ul style="list-style-type: none"> ▪ Communities to be notified at least <u>30 days</u> in advance before the start of civil works in the locality of the actual date that the land will be acquired by the project. ▪ Remaining ROW is still public state land.
F. TEMPORARY IMPACTS DUE TO ROAD CONSTRUCTION AND MAINTENANCE			
I. Affected assets during construction	<ul style="list-style-type: none"> ▪ Owners of assets 	<ul style="list-style-type: none"> ▪ Compensation as leasing fee based on replacement cost, and temporarily affected land will be returned to original owner/occupant. 	<ul style="list-style-type: none"> ▪ Compensation as leasing fee based on replacement cost, and temporarily affected land will be returned to original owner/occupant.
II. Damage to fields and private or community infrastructure including bund walls, drains and channels, etc.	<ul style="list-style-type: none"> ▪ Owners or persons using the field 	<ul style="list-style-type: none"> ▪ Repair of damage or payment for repair of damage at replacement cost. 	<ul style="list-style-type: none"> ▪ Leasing fee and expenses for repair damage are under the responsibility of civil work constructor.

Terms relevant for the assessment of entitlement and compensation for eligible PAP and PAH include:

- **Replacement Cost Study (RCS).** The main objective of the RCS is to determine the rate of land prices based on actual transaction records of the affected areas, of affected main and secondary⁴ structures, and of fruit trees, trees and crops. Based on the results of RCS, the PAH will receive compensation at replacement cost (reflecting market price) from RGC for their loss of land and property due to the sub-project. The RCS will be implemented during the DMS;
- **Unit Costs for Lands.** The affected private lands were divided into four main categories: (1) rice field, (2) orchard, (3) residential and (4) commercial lands. The way to obtain data on market rates is to gather data on recent land sales, however sale cost recording could not be found at/around the sub-project area. Therefore, data of recent sales were collected by direct interviews with (i) land owners at/around the sub-project area who are both PAHs and non-PAHs, and (ii) local authorities at/around the sub-project area. Per results of the RCS, the unit costs of land covered with recognized proofs of ownership, structures, crops, perennials, and timber trees in districts and communes traversed by the sub-project roads are provided;
- **Unit Costs for Structures.** The houses/structures affected by the sub-project have been categorized into two main groups – house/dwelling and other structures. The methodology employed for costing house/structures were composed of quantity survey and detailed measurement of the component parts of each structure. Labour costs were also assessed at market prices for the structure as a whole based on the information provided by local building contractors on regional basis. Other structures such as wells and fences, and cultural assets such as stupa (Chedey), have to be compensated at their market price, and the results of the specific rates of structures are provided; and
- **Unit Costs of Crops and Trees.** The data will be collected through interviews on the income at which owners/cultivators of crops and trees at the sub-project area. The market rates of crops and trees have been calculated based on the yield and the period of maturity of trees and crops as determined from interviews with farmers. The formula used for fruit trees is as follows:

Fruit Trees = ((quantity of harvested per year x market price) x (number of years it will mature)) + cost of seedling

- Perennial trees that have a growth period of more than five (5) years have been classified as follows:
 - Sapling tree under 1 year will not be compensated as it can be replanted;
 - Young tree (1 to 3 years): will be valued at one-third (1/3) of its full price because it can be replanted;
 - Young tree (3 to 5 years), bearing some fruit will be valued at two-thirds (2/3) of its full price; and
 - Mature tree (more than five years) fully bearing fruit will be compensated at full price.

⁴ This includes fences, wells, pig pens, toilets, kitchens, etc.

8.0 ORGANIZATIONAL PROCEDURES FOR RESETTLEMENT

The MRD has the lead responsibility for rehabilitation of secondary rural roads, and implementation of voluntary donation due diligence process in Cambodia. If there is involuntary resettlement and land acquisition, the MRD will request to the Inter-Ministerial Resettlement Committee to address resettlement and land acquisition in accordance with the policies and procedures set forth in this RPF.

In addition to MRD, a number of other government departments will play an instrumental role in the design, construction and operation of the rural secondary roads. Pursuant to the active legislation, the Ministry of Environment (MOE) is responsible for environmental issues. The Ministry of Economy and Finance (MEF) General Department of Resettlement (GDR, secretariat of the Inter-Ministerial Resettlement Committee) is responsible involuntary resettlement and land acquisition.

If resettlement impacts are caused by the project, MRD will request the GDR/IRC to address them. The GDR/IRC will work closely with the DIA and Provincial Resettlement Sub-Committee (PRSC) for coordinating with the Inter-ministerial Resettlement Committee Working Group (IRC-WG) to deal with resettlement issues. For dealing with resettlement issues at the provincial level, then a Provincial Resettlement Sub-Committee Working Group (PRSC-WG) shall be established.

8.1 INTER-MINISTERIAL RESETTLEMENT COMMITTEE AND THE GENERAL DEPARTMENT OF RESETTLEMENT (GDR)

The Inter-Ministerial Resettlement Committee (IRC) is a collegial body headed by the representative from MEF and composed of representatives from concerned line ministries, such as the Ministry of Interior; MPWT, MLMUPC; MEF and MAFF. Created by the Prime Minister through *Decision No. 13, dated 18 March 1997*, in connection with the resettlement of PAHs in the Highway 1 Project (Loan 1659-CAM), it continues to be involved in other foreign-assisted government infrastructure projects with involuntary resettlement. An IRC will be established on an ad hoc basis for each project upon the request from the Designated Implementing Agency. The IRC will assume the function of a quasi-regulatory body, ensuring that funds for resettlement are spent properly and that the RPF-RP is carried out as intended. The technical arm of the IRC is its secretariat, the General Department of Resettlement.

The IRC is responsible for the following aspects of land acquisition and resettlement of projects: (i) take the lead in conducting the DMS, (ii) approval of compensation rates; (iii) reporting to the Government on resettlement activities and request approval, if necessary, including endorsement of land acquisition and resettlement plan (RP); and (iv) disbursement of funds to the Provincial Department of Economy and Finance (PDEF) for paying compensation and delivery of all other entitlements to Displaced Peoples, in accordance with the approved RP.

The General Department of Resettlement (GDR) is a secretariat of IRC and will work closely with other relevant institutions to deal with all resettlement issues as a result of the sub-projects. The GDR will assist IRC in the following tasks:

- (i) Reviewing and approving the RPF-RP, and ensuring its consistency with legal and resettlement policy in force in Cambodia;
- (ii) Submitting the approved RP to WB;
- (iii) Request to Provincial Governor to establish PRSC and PRSC-WG;

- (iv) Orienting, as needed, PRSC and its WG (PRSC-WG) on their tasks relative to RPF-RP updating and implementation;
- (v) Manage and supervise the implementation of RP such as DMS;
- (vi) Negotiation and contract making with PAP and PAH;
- (vii) Securing from the national treasury the budget for carrying out the RP, and ensuring that funds are available in a timely manner and in sufficient amounts;
- (viii) Ensuring the approval of all disbursements connected with the implementation of the RP, such as payment for compensation and other entitlements, acquisition and preparation of replacement plots, operational expenses of personnel, etc.; and
- (ix) Ensuring that funds for resettlement are spent judiciously; and contracting an External Monitoring Agency to monitor the implementation of the RP, and ensuring that this is carried out in compliance with the sub-project resettlement policy and with the loan agreement.

8.2 PROVINCIAL RESETTLEMENT SUB-COMMITTEE

The Provincial Resettlement Sub-Committee (PRSC) is a collegial body set up at the provincial level. Headed by the Provincial Governor or Provincial Vice-Governor, its members are provincial department directors of line ministries represented in IRC, and the chiefs of the districts and communes traversing along the sub-project road sections.

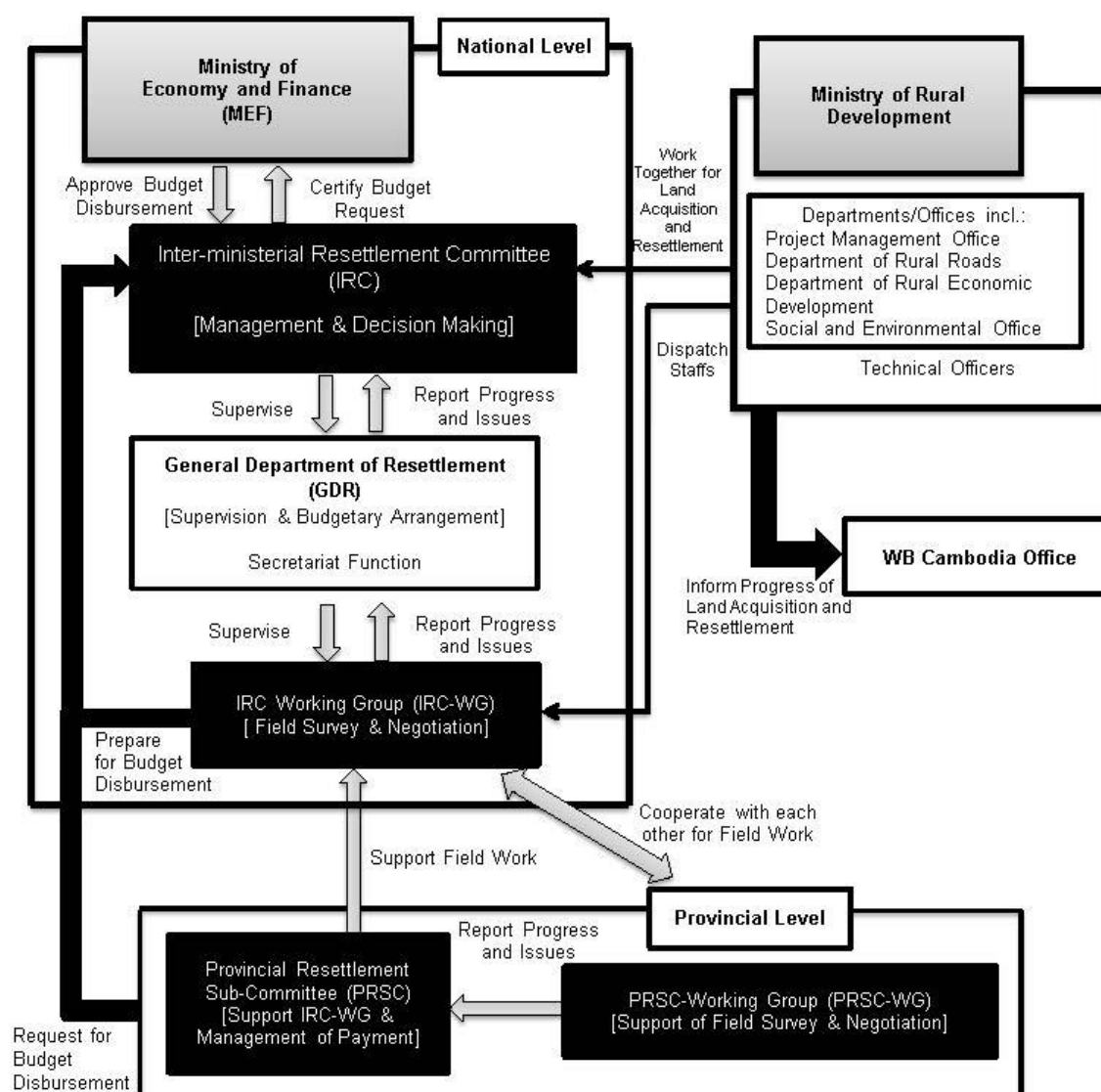
The technical arm of PRSC is PRSC-WG, which is headed by a representative of the relevant Provincial Hall. The regular members of PRSC-WG come from the Provincial Government, the Provincial Department of Economy and Finance (PDEF). In an effort to make the whole process of resettlement effective, participatory and transparent, the chiefs of the affected communes and villages in project affected communes will have a seat and be actively involved in the PRSC-WG to tackle matters concerning their respective areas of jurisdiction.

PRSC, through PRSC-WG, will have the following functions:

- (i) Facilitate a sustained public information campaign, ensuring that the public, especially the PAHs, are updated on any development regarding the sub-project and resettlement activities;
- (ii) Cooperate with IRC-WG in conducting the implementation of RP and assist with public consultation and information disclosure meeting(s);
- (iii) Manage the delivery of compensation and other entitlements to the PAHs;
- (iv) Receive and act on the complaints and grievances of PAHs in accordance with the sub-project resettlement policy; and
- (v) Maintain a record of all public meetings, grievances, and actions taken to address complaints and grievances.

The institutional setup, for resettlement and land acquisition is illustrated in Figure 1.

Figure 1 Institutional Arrangement for Project-Related Land Resettlement.



8.2.1 Project Management Unit

The PMU, established by MRD, is the lead arm of MRD for preparation and implementation of the RP. The staff members of the PMU work for both resettlement and environmental and social safeguards tasks. The PMU will work closely with the GDR-IRC. Its tasks include the following:

- Screening sub-projects and determination of sub-project resettlement impact categorization;
- Guide, support and oversee the work of the PRSC-WG and other stakeholders for activities related to planning, implementation and monitoring of plans and activities for voluntary and involuntary land acquisition;
- Prepare RPF-RP for the project with resettlement impacts and submit to MEF-IRC for endorsement;

- d) Coordinate with IRC and PRSC for conducting the DMS, implementing public consultations, development of resettlement sites and other resettlement activities required to implement the approved RPF;
- e) Carry out the process of voluntary donation with proper documentation; and
- f) Coordinate internal monitoring activities including development of monitoring indicators, procedures and reporting.

9.0 PREPARING THE LAND STUDY REPORT

9.1 PREPARING THE VOLUNTARY LAND CONTRIBUTION REPORT

For sub-projects with voluntary land contributions, the PMU must prepare a voluntary land contribution report consisting of:

- Voluntary land contribution report (VLCR);
- Land Survey Map;
- Schedule of Land Acquisition, if applicable;
- List of Voluntary Contributions of Land and other assets;
- List of participants in Land Survey with gender equality; and
- Two meeting minutes: 1) Minutes of disclosure meeting about the right of land users, and 2) Minutes of the meeting to discuss and make agreement.

9.2 APPROVAL OF THE LAND STUDY REPORT

The land study report (VLCR and/or Land Acquisition Report) will be conducted by the PMU and submitted to GDR for approval. The GDR will check if there are any land users' complaints on record. If the report is not complete or conform to the guidelines, the GDR may ask the government official responsible for the report (PRSC) to develop a revised version with the PMU and to re-submit for approval.

If any land users indicate that they are not satisfied with the solution offered for their land contribution, the sub-project(s) cannot proceed until resolution has been achieved. The PMU must notify the PRSC about any such issues and the PRSC must review the resolution arrangements to ensure the offer has been voluntary. Otherwise, the PRSC may find that the sub-project(s) cannot proceed. When the report has been accepted and the all resolutions finalized, the PMU should be notified. The VLCR should include the following:

- Project name;
- Location including province, commune, and district;
- Date of commencement;
- Project description;
- Public disclosure summary with number of people;
- Date of public disclosure;

- Participatory land use survey details:
 - Date of collection of affected-land and other assets;
 - Date of meeting for discussion and agreement;
 - Number of participants (attached list of participants);
 - Total amount of voluntarily land contribution; and
 - Value of voluntarily assets contribution.

The report should be signed by the PRSC or PMU and also include land survey map(s), schedule of acquisition, list of voluntary land and other donated assets, list of land survey participants and minutes of meetings.

10.0 LINKING RESETTLEMENT TO CIVIL WORKS

As mentioned, the Cambodia sub-project is not expected to require major physical relocation of roadworks as all proposed roadworks repair and rehabilitation would occur in the existing alignment and ROW. However, minor infrastructure or the use of some areas for drainage improvements, borrow pits or waste disposal sites may result in unexpected low-level impacts, including disruption of access or damage to property (i.e., land and buildings). Road maintenance activities may also require the relocation of temporary structures, temporary occupation of plots of land or may cause damage to crops and trees along the ROW.

Potential minor and temporary land acquisition may be required due to the construction of improved roadside drainage ditches within the alignment and ROW. Land acquisition would be identified during implementation when final alignment and roadwork designs become available and the extent of land acquisition required and its impact on PAP are known. However, it may be surmised that even temporary displacement and dislocation of businesses in the short term may have an adverse social impact for different populations.

Local communities and households may elect to make a voluntary contribution of affected land without compensation. This situation should only be acceptable when benefits to PAP can be assured. The process of consultation with potential contributors should be conducted in an open and transparent manner with decisions regarding voluntary contributions based on free, prior and informed consultation and unforced choice by affected people. Local authorities must document the consultation process and agreement as part of the roadworks package.

All PAP and PAH, without regard to legal status of property, will receive support of various kinds, as per the principles set out in the Entitlement Matrix (Table 3), to assist them in their efforts to maintain their livelihoods and living standards prevailing prior to implementation of the sub-projects. Squatters will not be compensated for loss of land but will receive compensation for loss of other assets which had been established with their own finances, and for loss of income such that they are assisted in their efforts to maintain their livelihoods and well-being. Detailed measures to be implemented will be determined based on the census and socio-economic survey conducted when the RP is developed.

PAP and PAH will be notified of the sub-project implementation schedule and consulted regarding the principles of land acquisition and loss of or damage to assets. Damages to assets, such as, standing crops, trees, fences and kiosks, and loss of income, including loss of harvest will be minimized, although some disruption is inevitable. Where disruption occurs, PAP and PAH, and will be compensated without regard to legal status of ownership according to the Entitlement Matrix provided in this RPF.

A market survey will be conducted to assess the prevailing market prices of land and construction materials for affected structures, crops and relevant items which will be used as the unit prices to determine compensation. This exercise will provide assurance to PAP and PAH that they will be able to purchase equivalent value replacement land. Loss of income and assets will be compensated on a net basis without tax, depreciation or any other deduction.

Cut-off Dates of Eligibility

A household survey and census will be conducted as soon as the sub-projects have been confirmed in order to develop the inventory of sub-project impacts on affected household and business. Care will be taken to set cut-off dates immediately after the determination of the final sub-project road rehabilitation sections are confirmed and at date of public consultation with PAP and PAH.

The household survey including IOL and DMS will be used to record all loss of assets incurred as a result of project implementation. A binding legal instrument will be used to record all loss of assets which will be signed by PAP and PAH, their neighbors and representatives of local government. The compensation eligible to each affected entity will be determined based on the legal instrument and the detailed methodology to calculate compensation will be articulated in the RP.

Project Implementation Process

IRC will mobilize its working group to work closely with PRSC-WG and if required the External Monitoring Agency (EMA) before commencement of any resettlement activities. Land acquisition and relocation of PAH will not commence until the detailed RP has been reviewed and approved by both IRC and WB. Several steps are integral to the RPF-RP implementation process, including:

- (i) Detailed Measurement Survey (DMS) and Replacement Cost Study (RCS): a detailed DMS and RCS will be conducted under management of the IRC-WG based the approved detailed designed and as requested by MRD. The DMS will be implemented by IRC-WG in close cooperation with PRSC-WG and relevant local authorities. The RCS will be conducted by an independent agency hired by IRC. Based on the result of DMS and RCS, MRD will update the RPF-RP. IRC will then calculate the compensation amount and subsequently request budget disbursement from RGC. Before conducting the DMS, a public consultation meeting will be held by IRC-WG assisted by PRSC-WG.
- (ii) Public Disclosure and Information Meeting Prior to DMS: two separate information meetings will be held prior to the DMS, including: i) with members of the PRSC, district and commune level; and ii) with PAP and PAH and other community members at commune level which will likely be affected by the sub-projects. Information meetings with the PRSC will be conducted with applicable commune(s). The purpose of these meetings is: i) to provide information about the sub-projects, the requirements for a resettlement program and the procedures of the DMS and RP implementation; and ii) to ensure that all stakeholders receive basic information about the sub-projects and resettlement activities, and have an opportunity to raise questions and concerns.

Information provided during the public disclosure meetings with PAP and PAH prior to the DMS will include:

- a) Information about the sub-projects and benefits;
- b) Scope of resettlement and land acquisition and COI;

- c) Potential impacts of the sub-projects on households living with the sub-project area(s);
 - d) Policy for compensation and entitlement; and
 - e) Process of Resettlement Plan (the “RP”) preparation and implementation.
- (iii) Notification on Site Clearance: PAH which would be relocated should be informed about the schedule for the sub-project site clearance and start-up of the physical works. PAHs should be given sufficient time to relocate and harvest their crops, where applicable, prior to start-up of enclosure of the sub-project area.

11.0 GRIEVANCE REDRESS MECHANISM

At the same time that the IRC requests the Provincial Authority to establish the PRSC for the sub-projects, the IRC also requests the Provincial Authority to establish a grievance redress committee(s) at the local (provincial, district, and commune) levels to be headed respectively by the Provincial Governor or Provincial Vice-Governor, Chief of District, and Commune Chief. At the GRM commune level, the membership of the GRM a representative from affected households (AHs) who shall be chosen from among the PAPs. These committees will receive, evaluate and facilitate the resolution of PAP and PAH concerns, complaints and grievances. The grievance redress committees will function, for the benefit of PAP and PAH, during the entire life of the sub-project(s), including the defects liability periods.

Grievances from PAP and PAHs in connection with the implementation of the RP will be handled through negotiation with the aim of achieving consensus. Complaints will go through three stages before they may be elevated to a court of law as a last resort.

First Stage, Commune Level

An aggrieved PAH may bring his/her complaint to the commune leader. The commune leader will call for a meeting of the group to decide the course of action to resolve the complaint within 15 days, following the lodging of complaint by the aggrieved PAH. The meeting of the group would consist of the commune leader, representative(s) from PRSC-WG district offices, and the aggrieved PAH. The commune leader is responsible for documenting and keeping file of all complaints that are directed through him/her. If after 15 days the aggrieved PAH did not hear from village or commune authority, or if the PAH is not satisfied with the decision taken at the first stage, the complaint may be brought to the District Office either in writing or verbally.

Second Stage, District Office

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 Redress Committee.

Third Stage, Provincial Grievance Redress Committee

The Provincial Grievance Redress Committee, which consists of Provincial Governor or Deputy Governor as a committee chairman and Directors of relevant Provincial Departments as members will be established in each province prior to DMS, meets with the aggrieved party and tries to resolve the complaint. The Committee may ask the PRSC-WG for a review of the DMS by the

External Monitoring Agency (EMA). Within 30 days of the submission of the grievance to the Provincial Grievance Redress Committee a written decision must be made and copy sent to IRC, MRD and the PAH.

Final Stage, the Court Procedures

If the aggrieved PAH is not satisfied with the solution made by the Provincial Grievance Redress Committee based on the agreed policy in the RPF-RP, the committee shall file administrative procedures against the PAH 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. At the same time, the PAH can bring the case to the Provincial court. During the litigation of the case, RGC will request to the court that the sub-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 RGC shall implement the decision of the court.

In sub-projects where Indigenous People (IP) are affected directly or indirectly, all complaints shall be discussed and negotiations carried out in the community where the PAP and PAH live. Where necessary, the sub-project proponents will provide assistance so that the rights of indigenous minorities are protected.

12.0 ARRANGEMENTS FOR FUNDING RESETTLEMENT

Each RP will include detailed cost of compensation and other rehabilitation entitlements as part of the process to compensate relocated PAP and PAH. Arrangements will be made for PAP and PAH property and assets segregated on the basis of agricultural land, residential land, business land, houses, business assets and other holdings. The detailed budgetary estimates will make adequate provision for contingencies and the RP will explicitly establish sources for all funds required. The RP will ensure that fund flows are compatible with the timetable for payment of compensation and provision of all other assistance.

The budget will cover land acquisition, relocation site development, compensation costs, allowances and administration costs, and contingency. Resettlement costs will be part of the RGC's counterpart fund. The RGC will ensure timely provision of counterpart funds for resettlement to meet any unforeseen obligations in excess of the resettlement budget estimates in order satisfy resettlement requirements and objective.

13.0 PARTICIPATORY CONSULTATIONS

As discussed above, PAP and PAH will participate throughout the development and implementation process of land acquisition and the land donation process. PAP and PAH will be consulted by commune councils, district and provincial authorities. The PAP and PAH will be invited to participate in public meetings in the early stages of the process and will be provided with reliable information on the proposed sub-project(s), its impacts and proposed mitigation measures and economic rehabilitation activities. Information publicly disclosed will also include cut-off dates for each sub-project, eligibility criteria and entitlements, modalities of compensation, complaints and grievance redress procedures.

The PAP and PAH and different populations will be provided with an opportunity of presenting their ideas and suggestions as inputs into the planning and implementation of the sub-project(s). These will

be achieved through a series of participatory exercises and focused discussions with PAP and PAH, thus ensuring that the affected parties have a stake in the process.

As mentioned, PAP and PAH will be involved in various committees, including the grievance redress committee, to be established, which will ensure their participation in the decision-making process throughout various stages of the RP process, including preparation and implementation. Following sub-project completion, a survey could be undertaken by the MRD PMO amongst PAP and PAH to assess their level of satisfaction with the process and results of the RP.

14.0 MONITORING AND REPORTING

Monitoring is a key component of sub-project implementation. As the DIA, MRD would appoint adequate full-time staff as part of the internal monitoring process. These staff will monitor the process of land acquisition or voluntary donation in collaboration with local commune or district authorities. If necessary, capacity building on the monitoring process will need to be given to the designated Ministry staff at the onset.

Internal Monitoring

The PMU in close coordination with GDR-IRC will conduct internal monitoring on resettlement implementation. The monitoring will include progress reports, status of the RP implementation, information on location and numbers of people affected, compensation amounts paid by item, and assistance provided to PAHs. The report of monitoring results will be prepared by MRD and submitted to IRC and WB on a quarterly basis.

The following indicators will be monitored periodically by the MRD/PMO to ensure:

- (i) Compensation and entitlements are computed at rates and procedures as provided in the approved RP;
- (ii) PAHs are paid as per agreed policy provided in the RP by the sub-project authorities;
- (iii) Public information, public consultation and grievance redress procedures are followed as described in the approved RP;
- (iv) Public facilities and infrastructure affected by the sub-projects are restored; and
- (v) The transition between resettlement and civil works is smooth.

External Monitoring

The external monitor has the specific responsibility of studying and reporting on RP implementation and on social and economic situations of PAH particularly disrupted by the road works, including all households whose houses or shops and stalls are relocated. The external monitor also has the responsibility of reviewing potentials for job opportunities for PAH, including women and youth, which would be assisted by provincial authorities.

If required and needed based on the project impact, IRC will hire an External Monitoring Agency (EMA) to carry out external monitoring and post evaluation. The TOR for the engagement of the EMA will be prepared before procurement process. The external monitoring reports will be submitted to IRC on quarterly basis, and then IRC will forward to MRD/PMU and to WB. The post evaluation will be conducted within six-months after all resettlement activities are completed.

15.0 VOLUNTARY LAND DONATION (VLD) FRAMEWORK

In accordance with community customary practices, villagers may choose to voluntarily contribute land or assets without compensation. This can often be justified because the sub-project may provide a direct benefit to the affected people; provisions for voluntary land donations (VLDs) are included in Appendix A2 and a draft form in Appendix A3.

1. **Scope of voluntary land donation.** VLD is applied for beneficiary communities with no involuntary land acquisition and based on community-driven demand. VLD will be accepted when small areas of private land and assets where the affected users of the assets and land have agreed to give their land and other assets as a voluntary contribution to the sub-project. No individual or family will lose more than **10%** of their land, or other assets worth more than **400,000 Riels**. Smallholder of residential land with area of 300 m² or less will not be allowed for VLD. Additionally, the land portion to be voluntarily donated shall be free of houses, structures or other fixed assets. For this type of sub-project, the Commune Chief should prepare a report showing that the land users have been fully informed about the sub-project, and about their right to refuse to give their land and other assets without compensation. This report will be called the “**Voluntary Land Donation Report,**” as per the Commune/Sangkat Fund Project Implementation Manual (CSF-PIM).
2. **Voluntary contribution is an act of informed consent.** sub-project staff will assure that voluntary contributions are made with the prior knowledge that other options are available including compensation in replacement values, and are obtained without coercion or duress. PAPs have the right to refuse to donate assets and receive their entitlement and compensation for their land and assets lost. They will be fully informed of their rights and access to grievance mechanisms described in this RPF.
3. **Due Diligence.** The voluntary land donation due diligence will be documented in the sub-project investment’s feasibility assessment report and will incorporate at a minimum the following:
 - a) Verification and documentation that land required for the project is given voluntarily and the land to be donated is free from any dispute on ownership or any other encumbrances;
 - b) Verification that no individual household will be impoverished by the land donation (i.e., no more than 10% of total land holding donated) will require that community development groups negotiate livelihood restitution measures such as reduction in operation and maintenance fees or sharing of cultivable land of other beneficiary community members;
 - c) Verification that land donation will not displace tenants or bonded labor, if any, from the land;
 - d) Meaningful consultation has been conducted in good faith with all potential land donors. Documented verification that land donors are in agreement with the sub-project and its benefits. Separate discussions to be held with women and community groups as required to facilitate meaningful participation; and

- e) Assurance that a community mechanism for investment activity implementation is operational and has a fair system of grievance redress, as well as a system for project monitoring and reporting.
4. **Documentation.** Sub-project staff will document the voluntary land donation due diligence report in each beneficiary community that requires donation of private land. They will ensure completion of the written consent form for land donation (see sample in Appendix A3). The donation will be verified by two witnesses who are community leaders but not the direct beneficiaries of the investment activity, to ensure that the land was voluntarily donated without any form of duress. The voluntary land donation due diligence information will be verified during sub-project detailed design and updated as necessary.
 5. **Voluntary Land Donation Monitoring.** The voluntary land donation issues will be monitored by sub-project staff and the World Bank periodically review the land donation agreement forms and randomly interviewing the donors. During review missions, WB will verify that land donation due diligence has been conducted in accordance with the above procedures.
 6. **Grievance Redress Mechanism.** Anticipated grievances may relate to coercion for land donation or a donation of more than 10% of private land holding, leading to impoverishment. Any complaint will go to the grievance redress committee (GRC) established for the sub-projects. Procedure for handling the complaint describe in Section 11.0.

APPENDICES

Appendix A1

Resettlement Plan Formats

Abbreviated Resettlement Action Plan (ARAP): Annotated Document Contents and Information Requirements

Introduction

- Project (one paragraph): refer to the RPF that covers the sub-projects and provides the policies and principles for the ARAP;
- Brief description of the sub-project development objectives and intended beneficiaries; and
- Describe the activities that will give rise to impacts that require “resettlement” (i.e., anything that causes loss of land, assets or elements of PAP livelihood – not only physical relocation, but also, loss of trees, temporary relocation of roadside stall (kiosk), and comprised access.

Census of PAP and Inventory of Assets

- Brief description of how the data was gathered (e.g., household survey);
- Table of PAP and PAH, contact details, affected livelihoods, assets, value of affected dwelling/structures/assets; and
- Brief comment about any significant differences, sources of vulnerability of PAP and different populations (ethnic peoples and vulnerable groups – women and female/male youth and children, the elderly and disabled, landless, and poor, etc.), or state that they are representative of the general socio-economic profile of the country.

Compensation to be Provided

- Forms of compensation to be provided (e.g., cash or in-kind);
- Description of the conditions for voluntary donation (if applicable), including:
 - Free, prior and informed consultation made of the PAP own volition and is un-coerced with the decision making ability to withhold consent;
 - No severe impacts on living standards; no physical relocation and less than 10 % of PAP livelihood assets affected;
 - Availability of complaints and compensation procedure; and
 - Documentation and independent verification of the donation of land or assets.

Consultation with Affected Persons

- Brief description of the general public disclosure communications to announce the sub-projects and invite comment;
- Subsequent consultations with known or self-identified PAP;
 - Alternatives discussed with PAP and the community; and
 - Dissemination of information about the cut-off date for registering as PAP; availability of a complaints/grievance mechanism (details in RPF Section 10.)
- Arrangements for formal disclosure of resettlement instrument; availability for public disclosure, review and comment, and posted on MRD and the World Bank websites.

Institutional Responsibilities for Delivery of Compensation

- Responsible agency;
- Method of notification to PAP;
- Timing of settlement (before the incidence of the loss to be compensated);
- Method of verification, disclosure and witnessing of the settlement (i.e., annex form for recording and witnessing handover of entitlement); and
- Process for handling complaints or grievances, and appeals.

Implementation Reporting and Monitoring

- Institutional responsibilities for reporting and monitoring of the ARAP;
- Independent participation in monitoring (e.g., CSOs, research institutes, etc.); and
- Summary report on consultation with the wider community (append attendance register to document).

Timetable and Budget

- Time and task matrix;
- Source and flow of funds;
 - Consultation costs;
 - Personnel costs;
 - Office overhead expenses;
 - Compensation funds; and
 - Monitoring and reporting costs.

Resettlement Action Plan (RAP): Annotated Document Contents and Information Requirements

Introduction

- General description of sub-projects in relation to policies and principles which inform the RAP;
- Describe sub-project development objectives and intended beneficiaries briefly; and
- Describe the activities that will give rise to impacts that require “resettlement” and comprised access.

Scope

- Level of detail varies with the magnitude and complexity of the resettlement;
- Collect up-to-date and reliable information, including:
 - The proposed resettlement and its impacts on the displaced persons and other adversely affected groups; and
 - Legal issues involved in resettlement.
- Any issue described below which is not relevant to sub-project circumstances, should be explained.

Description of the Sub-projects

- Short detailed narrative on sub-project initiatives and/or activities; and
- Identification of the sub-project initiatives and/or activities’ project area and footprint.

Potential Impacts Identified

- Sub-project components or activities that give rise to resettlement;
- Zone of impact and region of influence (ROI) of sub-project initiatives and/or activities;
- Alternatives considered to prevent (avoid) or minimize resettlement; and
- Mechanisms established to minimize resettlement, to the extent possible, during sub-project implementation.

Main Objectives of the Resettlement Program

- Sets out the purpose and objectives.

Socio-economic Studies

- Conducted in early stages of sub-project preparation and with the involvement of potentially displaced people, including:
 - The results of a census survey covering:
 - ♦ Current occupants of the affected area to establish a basis for the design of the resettlement program and to exclude subsequent inflows of people from eligibility for compensation and resettlement assistance;

- ♦ Standard characteristics of displaced households, including a description of production systems, labor, and household organization; and baseline information on livelihoods (i.e., production levels and income derived from both formal and informal economic activities) and standards of living including health status and well-being of the PAP and PAH;
 - ♦ The magnitude of the expected loss of assets (i.e., total or partial) and the extent of displacement, physical or economic;
 - ♦ Information on vulnerable groups or persons (OP/BP 4.12, paragraph 8) for whom special provisions may have to be made; and
 - ♦ Provisions to update information on the displaced PAP and PAH livelihoods and standards of living at regular intervals so that the latest information is available at the time of their displacement.
- Other studies describing the following:
 - Land tenure and transfer systems, including an inventory of common property natural resources from which PAP derive their livelihoods and sustenance, non-titled usufruct systems (i.e., fishing, grazing, or use of forest areas) governed by local recognized land allocation mechanisms, and any issues raised by different tenure systems in the sub-project footprint;
 - Patterns of social interaction in the affected communities, including social networks and social support systems, and how they will be affected by the sub-projects;
 - Public consultation and social services that will be affected; and
 - Social and cultural characteristics of displaced communities, including a description of formal and informal institutions (i.e., civil society organizations including CBOs, NPAs) that may be relevant to the consultation strategy and to designing and implementing the resettlement activities.

Legal Framework

- Findings of an analysis of the legal framework, covering:
 - The scope of the power of eminent domain and the nature of compensation associated with it in terms of both the valuation methodology and the timing of payment;
 - The applicable legal and administrative procedures, including a description of the remedies available to displaced persons (PAP and PAH) in the judicial process and the normal timeframe for such procedures, and any available alternative dispute resolution mechanisms that may be relevant to resettlement under the sub-projects;
 - Relevant law (including customary and traditional law) governing land tenure, valuation of assets and losses, compensation, and natural resource usage rights; customary personal law related to displacement; and environmental laws and social welfare legislation;

- Laws and regulations relating to the agencies responsible for implementing resettlement activities;
- Gaps, if any, between local laws covering eminent domain and resettlement and the World Bank's *Involuntary Resettlement* (OP/BP 4.12) policy, and the mechanisms to bridge such gaps; and
- Any legal steps necessary to ensure the effective implementation of resettlement activities under the sub-projects, including (as appropriate) a process for recognizing claims to legal rights to land (i.e., claims that derive from customary law and traditional usage – see OP/BP 4.12, paragraph 15 b).

Institutional Framework

- Findings of an analysis of the institutional framework, covering:
 - Identification of agencies responsible for resettlement activities and CSOs that may have a role in sub-project implementation;
 - Assessment of the institutional capacity of such agencies and CSOs; and
 - Any steps proposed to enhance the institutional capacity of agencies and CSOs responsible for resettlement implementation.

Eligibility

- Definition of displaced persons (PAP and PAH) and criteria for determining their eligibility for compensation and other resettlement assistance, including relevant cut-off dates.

Valuation of Land

- Methodology to be used in valuing losses to determine their replacement cost; and a description of the proposed types and levels of compensation under local law and such supplementary measures as are necessary to achieve replacement cost for lost assets.

Resettlement Measures

- Description of the packages of compensation and other resettlement measures that will assist each category of eligible displaced persons (PAP and PAH) to achieve the objectives of the policy (see OP/BP 4.12, paragraph 6). In addition to being technically and economically feasible, the resettlement packages should be compatible with the cultural preferences of the displaced persons, and prepared in consultation with them.

Site Selection, Site Preparation, and Relocation

- Alternative relocation sites considered and explanation of those selected, covering:
 - Institutional and technical arrangements for identifying and preparing relocation sites, whether urban or rural, for which a combination of productive potential, locational advantages, and other factors is at least comparable to the advantages of the old sites, with an estimate of the time needed to acquire and transfer land and ancillary resources;

- Any measures necessary to prevent land speculation and influx of ineligible persons at the selected sites;
- Procedures for physical relocation under the sub-project; including timetables for site preparation and transfer; and
- Legal arrangements for regularizing tenure and transferring titles to resettlers.

Housing, Infrastructure, and Social Services

- Plans to provide (or, to finance PAH provision of) housing, infrastructure (e.g., water supply, feeder roads), and social services (e.g., schools, health services, etc.); plans to ensure comparable services to host populations; any necessary site development, engineering, and architectural designs for these facilities.

Environmental Protection and Management

- Description of the boundaries of the relocation area; and an assessment of the environmental impacts of the proposed resettlement and measures to mitigate and manage these impacts (coordinated as appropriate with the ESMP of the main investment requiring the resettlement).

Community Participation

- Description of the strategy for consultation with and participation of PAH and hosts in the design and implementation of the resettlement activities;
- Summary of the views expressed and how these views were taken into account in preparing the resettlement plan;
- Review of the resettlement alternatives presented and the choices made by displaced persons regarding options available to them, including choices related to forms of compensation and resettlement assistance, to relocating as individual families or as parts of pre-existing communities or kinship groups, to sustaining existing patterns of group organization, and to retaining access to cultural property (e.g., places of worship, pilgrimage centers, cemeteries); and
- Institutionalized arrangements by which displaced people (PAP) can communicate their concerns to sub-project authorities throughout planning and implementation, and measures to ensure that such different populations (ethnic peoples and vulnerable groups – women and female/male youth and children, the elderly and disabled, landless, and poor, etc.), are adequately represented.

Integration with Host Populations

- Consultations with host communities and local governments;
- Arrangements for prompt tendering of any payment due the hosts for land or other assets provided to PAH;
- Arrangements for addressing any conflict that may arise between PAH and host communities; and

- Any measures necessary to augment services (e.g., education, water, health and productive services) in host communities to make them at least comparable to services available to PAH (i.e., resettlers).

Grievance Procedures

- Affordable and accessible procedures for third-party settlement and disputes arising from resettlement; such grievance mechanisms should take into account the availability of judicial recourse and community and traditional dispute settlement mechanisms.

Organizational Responsibilities

- Organizational framework for implementing resettlement, including identification of agencies responsible for delivery of resettlement measures and provision of services;
- Arrangements to ensure appropriate coordination between agencies and jurisdiction(s) involved in implementation; and
- Measures (including technical assistance) needed to strengthen the implementing agencies' capacity to design and carry out resettlement activities; provisions for the transfer to local authorities or PAH (resettlers) themselves of responsibility for managing facilities and services provided under the sub-projects and for transferring other such responsibilities from the resettlement implementing agencies, when appropriate.

Implementation Schedule

- Schedule covering all settlement activities from preparation through implementation, including target dates for the achievement of expected benefits to PAH (resettlers) and hosts and terminating the various forms of assistance. The schedule should indicate how the resettlement activities are linked to the implementation of the overall sub-projects.

Costs and Budget

- Tables showing itemized cost estimates for all resettlement activities, including allowances for inflation, population growth, and other contingencies; timetables for expenditures; sources of funds; and arrangements for timely flow of funds; and funding for resettlement, if any, in areas outside the jurisdiction of the implementing agencies.

Monitoring and Evaluation

- Arrangements for monitoring and evaluation activities by the implementing agency, supplemented by independent monitors as considered appropriate by the World Bank, to ensure complete and objective information;
- Performance monitoring indicators to measure inputs, outputs, and outcomes for resettlement activities;
- Involvement of the displaced persons (PAP and PAH) in the monitoring process; and
- Evaluation of the impact of resettlement for a reasonable period after all resettlement and related development activities have been completed using results of resettlement monitoring to guide subsequent implementation.

Appendix A2

Land Donation Protocols

The process will include the following:

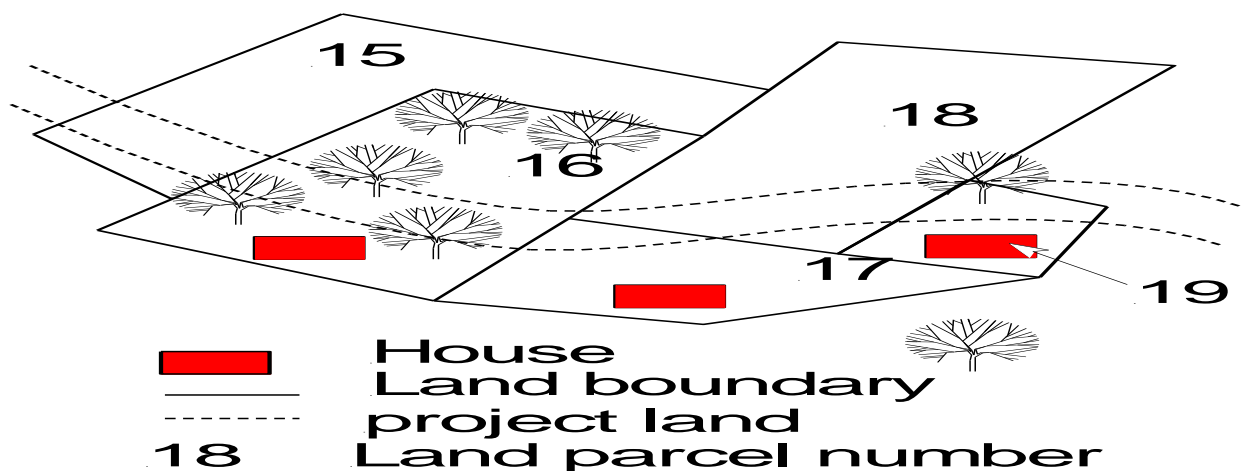
1. Official information and initial assessment. Determining the appropriateness of VLD in the circumstances of the project. Activities that will require VLD as a result of the screening process and the land study specifically the Voluntary Land Contribution Report sub-project staff will inform the village head and villagers or land owners through official notification on where the activities will be implemented that will require VLD. Record and document the reasons why donation of land is appropriate for the project. The Commune Chief will take into consideration the following details for such documentation:
 - What the land will be used for;
 - How much land the project will require on both a permanent and temporary basis;
 - How much of the land will be donated;
 - What alternatives to donation exist (e.g., right of use, right of way);
 - The terms of the donation;
 - The identities of the parties who intend to donate;
 - The beneficiary of the donation; and
 - Any details that are relevant to why donation may be appropriate.

Preparation of land survey map and schedule of land acquisition

2. After collected the information related to land and assets which will be affected by sub-project implementation, the responsible official, with assistance from the related persons, will prepare a land survey map and a schedule of land acquisition.

The land survey map shows each parcel of land that will be affected, and each parcel of land should be given a code (a letter or number).

Figure A2.2 Example of land survey map.



3. Verification of voluntary donations. The following conditions will be confirmed by the Committee including the village chief.

- a) Confirmation that affected people agree to donate land or asset, based on a face to face meeting;
 - b) No one would lose more than 10% of the total productive assets;
 - c) The total land holding of the affected person should be 200 m² or more; and
 - d) No physical relocation necessary.
4. Initial Village Consultation. Under the village head leadership, a consultation process will be launched to invite different interest parties, including land owners to discuss and ratify the appropriateness of the voluntary basis of land donation.
 5. Transferring and formalizing the land. Process for land donation includes very clear procedures that explain the process that should be followed to transfer the land, and appropriate ways to formalize the respective transfer. The process includes consideration of the legal and administrative requirements based on Cambodia's legal framework. The process will describe a clear and transparent decision making process.
 6. Verification process (surveys) to identify land ownership and use. Commune Chief and Technical Assistant will ensure that the land study will include specific surveys to understand the type of land rights that exist in the sub-project area, and to identify any particular issues relating to land ownership and use. The specific surveys must be conducted on each parcel of land proposed for donation to identify:
 - a) The owner or owners of the land;
 - b) The users of the land, or any parties that occupy the land (either physically or through ownership of an asset or conduct of livelihood or business activities on the land);
 - c) Any competing claims of ownership or use;
 - d) Structures and assets on the land; and
 - e) Any encumbrances on the land.
 7. It is important to: (i) identify the right that is being transferred (an ownership right, a use right, a right of way, etc.); and (ii) check whether the transferee actually has the right s/he claims to have. In many circumstances where careful due diligence has not been carried out, significant conflict has arisen at a later stage when another party claims that they have the same or a competing right. In some circumstances – but not all – the transferee will have documentary evidence of such right. Where no such evidence exists, the due diligence can establish rights by speaking with local community officials and neighbours.
 8. Public consultations and disclosure. The decision to donate must be taken on the basis of a full understanding of the sub-projects and the consequences of agreeing to donate the land. Accordingly, the parties that will be affected by the donation (the owners and users of the land) must be provided with accurate and accessible information regarding what the land will be used for, for how long, and the impact the donation will have on them and their families. It is important that prior written notification indicating the location and amount of land that is sought be provided and that its intended use for the sub-project is disclosed.

9. Where the intention is to deprive the parties affected by the donation of the land permanently, or for a significant length of time, this must be made clear. It should be noted that in many communities the concept of alienation of land is uncommon and difficult to understand, and care needs to be taken to ensure that the implications of this are fully understood. It is also important to decide who else should be consulted about the proposed donation; for example, spouses and older children.
10. There should be a clear agreement as to which party will pay the costs associated with the donated land. This could include measurement costs, documentation and notarial fees, transfer taxes, registration fees. It should also include the costs of re-measuring/re-titling the transferee's remaining land and any new documentation relating to it.

Establishing informed consent

1. The Commune Chief, in coordination with sub-project staff, verifies the informed consent or power of choice by the people who would donate land or an asset. In particular, the following will be verified and documented in the voluntary donation report:
 - a) What the land is going to be used for, by whom and for how long;
 - b) That they will be deprived of the ownership or right to use the land, and what this really means;
 - c) That they have a right to refuse to donate the land;
 - d) Whether there are alternatives to using this land;
 - e) What they will need to do to donate the land (e.g., execute documents, get spousal consents, pay taxes);
 - f) The effect of the donation on their family, and what they can do if they (or their family or heirs) want the land back; and
 - g) All conditions provided in the paragraph 2 above.
2. The right to refuse must be a legitimate right, unconditional, and the potential transferee must be capable of exercising it in the local community and political context. For this reason, it is important to be sure that the decision to donate is undertaken without coercion, manipulation, or any form of pressure on the part of public or traditional authorities. For collective or communal land, donation must be based upon the informed consent of all individuals using or occupying the land.
3. Proper documentation. During the VLD process for sub-project investments, it is important to distinguish between: (a) the agreement to donate the land; and (b) the document that carries out and evidences the legal transfer of the land. While it is important to have evidence of an intention and agreement to donate the land, it is equally important to ensure, where required and appropriate, that the land is legally transferred. While the process relating to the legal transfer of the land is frequently complicated and time consuming, it must be addressed. [In specific circumstances, for example where the land is being transferred to the community, it may not be necessary to legally transfer the land. However, experience indicates that lack of formal transfer can create significant uncertainty in the future, which impacts on the

sustainability of the infrastructure and services, and can have a negative effect on community relations.] (Appendix A3)

4. Commune Chief and sub-project staff should:
 - a) Identify the appropriate documentation, including the agreement to make the transfer and any legal documentation that may be required;
 - b) Ensure that the agreement:
 - Refers to the consultation has taken place;
 - Sets out the terms of the transfer;
 - Confirms that the decision to transfer was freely made, and was not subject to coercion, manipulation, or any form of pressure;
 - Attaches an accurate map of the land being transferred (boundaries, coordinates);
 - Sets out who will bear the costs of the transfer (e.g., notarial fees, taxes, title issues) and documenting the residual land rights;
 - c) Ensure that all necessary parties sign the documents, including obtaining consent from spouses and children over a certain age;
 - d) Ensure that the transfer and title is registered or recorded; and
 - e) Ensure that the land remaining after the donated land is excised is properly titled, registered or recorded.
5. It is also important to maintain a record of the process that has been followed. Such documents could include the following:
 - a) The notification indicating the location and amount of land that is sought and its intended use for the project, with a record of when and where this was made public;
 - b) Records of the consultations that were held and what was discussed;
 - c) A copy of the due diligence that was conducted;
 - d) Copies of each of the formal statements of donation, establishing informed consent as described above, and signed by each owner or user involved;
 - e) Copies of all documents, registrations or records evidencing the legal transfer of the land; and
 - f) A map, showing each parcel of land.

The Project Management Unit should maintain a record with documentation for each parcel of land donated. Such documentation must be available for World Bank review, and for review in relation to any grievances that may arise.

Grievance redress arrangements.

The sub-project specifies means by which donors (and, potentially, persons whose use or occupancy was not recognized in the transfer of land) may raise grievances, and measures to ensure consideration of, and timely response to, grievances raised. The grievance process includes participation of reviewers not directly affiliated with the project implementing agency. The grievance process imposes no cost upon those raising grievances, and participation in the grievance process does not preclude pursuit of legal remedies under the laws of the country.

Appendix A3

Voluntary Land Donation Form

Voluntary Land Donation Form

Province / Region:	
District:	
Commune/Sangkat:	
Village:	
Sub-project ID:	

Name of land owner:	ID Number:	Beneficiary of the project: Y/N		
Sex:	Age:	Occupation:		
Address:				
Description of land that will be taken for the project:	Area affected:	Total landholding area:	Ratio of land affected to total land held:	Map code, if available:
Description of annual crops growing on the land now and project impact:				
	Details	Number		
Trees that will be destroyed				
Fruit trees				
Trees used for other economic or household purposes				
Mature forest trees				
Other				
Describe any other assets that will be lost or must be moved to implement the project:				
Value of donated assets:				

1. By signing or providing thumb-print on this form, the land user or owner agrees to contribute assets to the sub-project. The contribution is voluntary. If the land user or owner does not want to contribute his/ her assets to the project, he or she should refuse to sign or provide thumb print, and ask for compensation instead.

Date:

Date:

District PMO representative's signature

Affected persons signature
(both husband and wife)