ROAD REHABILITATION PROJECT
SIMPLIFIED ENGINEERING DESIGN

RESETTLEMENT ACTION PLAN

June 1998

JAPAN OVERSEAS CONSULTANTS CO. LTD.
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ORIENTAL CONSULTANTS CO. LTD.
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Executive Summary

This Resettlement Action Plan (RAP) is a guide specified by the World Bank and approved by the Royal Cambodian Government (RCG). It defines which households will be negatively affected by the Cambodia Highways Rehabilitation Project, where they are located, what compensation measures are to be provided, and how and when these measures must be implemented. The RAP is an integral part of the Initial Environmental Assessment (IEA) for the project, critical to the integration of social environmental actions and concerns into the project process. It has been designed as a stand-alone document for the purposes of smooth passage through a relatively lengthy approval process not required of the rest of the IEA.

A RAP is required for this project because of the presence of people and their homes, businesses and gardens in the rights-of-way of several of the project road segments. The project entails the upgrading of 115.2km of roads in Phnom Penh and Sihanoukville Municipalities and Siem Reap Province. 11.8km of the project roads are urban roads, and 103.4km rural. Road improvements will vary from place to place, and will consist of everything from straightforward resurfacing, to widening by several meters, to elevation of the roadbed by over 3m for flood prevention. The improvements will be made in two stages. All project roads will be brought up to a standard width of 8m in the first stage (construction is slated to begin in late 1999), while the end of the second stage, some ten to fifteen years on, will see the standard width increased to 11m. In places where the road upgrade will consist of straightforward resurfacing of an existing road surface (already at the 11m maximum), the need for resettlement is essentially a non-issue. This is the case for all of the urban roads included in the project, so the resettlement process is focused on the rural areas.

An important distinction to make between this project and many other infrastructure projects requiring resettlement is that while all project-affected people (PAPs) are located within the 50m-wide RoW belonging to the RCG (see Section 2.3 for details), their new location further back from the corridor of impact will still be within the RoW. Therefore, neither expropriation of privately held land nor purchase of land to relocate PAPs will be necessary.

The data which form the basis of the prescriptions made in the RAP are the result of a survey of people living and working in the RoW of all the project roads. This survey was completed in May of 1998 by a Cambodian NGO with experience in undertaking public surveys. The survey found that there were 1818 households living in and/or deriving income from the RoW who could be considered PAPs eligible for compensation, and that almost 700 structures would have to be removed in order for the upgrade to take place. A diskette containing the raw survey data submitted by the NGO is included with this document. The entitlement policy, which defines the criteria used in determining which PAPs are eligible for compensation, is described in detail in Section 4.

There are four types of compensation available to PAPs:

i. compensation for loss of land and assets;
ii. compensation for temporary loss of livelihood;
iii. compensation for loss of community structures/facilities; and
iv. a flat shifting allowance.

The estimated total cost of compensation is US$284,880. Compensation payments for various losses are summarized in Table 6 of the RAP and further delineated in Section 9. They include:

- dismantling and replacing or rebuilding any structures affected by the project (both private and communal structures);
- finding new land for PAPs to occupy and cultivate within the RoW;
- temporary loss of employment;
- monetary compensation for loss of annual income due to lost crops, both perennial and annual (plus a flat payment for loss of future income from felled fruit trees);
- replacing wells and reconnecting any utilities which were disconnected through relocation;
a US$40 (Riel 144,000) shifting allowance paid to each PAP household to compensate for lost income and the general inconvenience of having to relocate; and

additional compensation for vulnerable groups of PAPs who suffer more, economically or socially, from relocation and rehabilitation than the general population.

The project implementation unit (PIU) and an independent monitoring or auditing agency will record and observe compensation procedures, and verify that any persons erroneously excluded from the census survey are compensated appropriately for their assets. Grievance procedures also will be explained to PAPs at the time of compensation.

Periodic monitoring of RAP implementation by an external auditor (NGO or consultant) will determine whether compensation measures are achieving their intended goals, to correct any shortcomings of the compensation, and to examine the overall effect that resettlement is having on the PAPs and their socio-economic status (for more details see Section 7).

The administrative and monitoring costs for the RAP are estimated to be US$75,000, bringing the total estimated cost of the RAP over a 4-year implementation period to US$359,880.
1 INTRODUCTION

This Resettlement Action Plan (RAP) is a guide specified by the World Bank and approved by the RCG. It defines which households will be negatively affected by the Cambodia Road Rehabilitation project, where they are located, what compensation measures are to be provided, and how and when these measures must be implemented.

The RAP has been completed as accurately as possible, yet changes are likely because it is a "living document", and information may need to be adjusted, verified, and updated regularly. In view of these possible adjustments, the Project Implementation Unit (PIU) should use the RAP as a planning tool, since it should provide relevant and up-to-date guidance.

This RAP, although part of the Initial Environmental Assessment, has been prepared as a separate document since it must undergo an extensive approval process and, if too closely tied to the IEA and its EMAP, could delay the entire environmental documentation package.

1.1 PROJECT DESCRIPTION

The project consists of the rehabilitation and, in a few cases, the reconstruction of roads in three regions of the country: Sihanoukville Municipality, Phnom Penh Municipality and Siem Reap (Map 1 and Map 2). Of the total 114 kilometers, approximately 25.4 kilometers pass directly through towns and urban areas, and 110.8 kilometers go through a rural agricultural setting, often passing small villages. The longest single continuous road section occurs in Siem Reap Province, and extends along NR6 (Map 1) for a distance of approximately 89 kilometers, from the intersection of the Siem Reap airport access road and NR6 to the provincial border with Kampong Thom. The four treatments proposed are resurfacing, rehabilitation, betterment and reconstruction. Definitions of these treatments can be found in Section 1.2 of the IEA.

Within urban areas, road improvements will not extend beyond the existing curbs, and will constitute the full 11m widening. No impacts are expected other than those related to normal construction period traffic delays, addressed in the terms and conditions, and specifications of the construction contract. Therefore, no further discussion of these urban sections is needed. Along rural sections of NR3 and NR6, betterment and reconstruction work is proposed. Taking a two-stage approach, roads will initially be widened and resurfaced to 8m (including two 0.5m shoulders), requiring the relocation back from the carriageway of all structures within the Corridor of Impact (CoI), mostly wooden stalls used by vendors and plots of cultivated vegetable gardens. More than 3000 tended fruit trees (mango, jackfruit, banana and guava) within the CoI will have to be cut down or, if small enough, transplanted. The second stage, some 10 to 15 years in the future, will involve a further widening to the 11m national road standard, at which time a further 1.5 m will have to be cleared on both sides of the carriageway (Figure 1). This project will, with a handful of exceptions, require only a ‘shifting back’ of the encroachers, within the RoW. The 10m-plus wide strip of land remaining unused after the second widening will provide ample space for the relocation of displaced PAPs.3

A major part of the work will be the replacement and reconstruction of more than 50 culverts and bridges which were damaged or destroyed during past military actions or have broken down due to neglect. However, all new bridge/culvert installations will be to the full 11m dimension, since replacing these structures when stage two is initiated would be a huge additional cost.

The construction work will be undertaken over a three-year period beginning at the end of 1999, with most project roads in operation by 2003 (Table 4).

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1 The entitlement policy (Section 4), defining PAP eligibility and the compensation packages to which each PAP is entitled, will not be changed without prior approval by the World Bank.
2 In this report, when referring to urban areas we mean roads within Sihanoukville, Phnom Penh and Siem Reap, but have not included the predominantly rural roads, passing through a number of small villages as found, for example, on NR6 and NR3.
3 In this report, unless specifically defined, PAPs refers to all eligible project-affected people.
Map 1 The NR6 Study Area from the Airport Access Road to the Border of Siem Reap Province, and Urban Sections through Siem Reap

LEGEND

- Recommended Road Sections
- Studied Road Sections
- Existing Roads not included in the Study

Quarry
Phnom Thom in Barananh Province
Kampong Thom in Kampong Thom Province
Phnom Kambang at Krabeb
Base course material only

Access to Bayon Set
(SRE1)

Prakat to Bayon Set
(SRE2)

Link Road between Angkor Wat
and Prakat with an access reach
to Bayon Set Temple

Siem Reap Airport

ANGKOR THOM

ANGKOR WAT

Airport Access Road
(SRE1)

Main Access to
Angkor Wat
(SRE4)

City of Siem Reap

NR6 (SRE6-A)
Airport Access Road to A21

NR6 (SRE6-B)
From A21 to East Provincial Border; see Map No. 2
Map 2 Study Area in Siem Reap Province: NR6 (SRE 2B to SRE 2F)

Quarry (Limestone)
Phnom Thom in Battambang Province
135km from Siem Reap

Quarry (Sandstone)
Phnom Kambang at Kampong La
60km west of Siem Reap
Base course material only
1.2 STUDY AREA BOUNDARIES

National highways in Cambodia have a 50m RoW in most locations. While no law requires this distance, the Royal Cambodian Government (RCG) assumes the available RoW to be 25m from either side of the road centerline. Generally local residents have respected the RoW boundary, in that they have constructed their permanent dwellings immediately outside of it. Figure 1 shows the relationship between the RoW and the area within which road construction will take place, known as the Corridor of Impact (CoI). The CoI must be cleared of all people and structures now, and again in 10-15 years when the roads are widened to the full 11m national standard.

Figure 1  Cross-section of RoW, Clearance Zone and Corridor of Impact on Cambodian National Highways (not to scale)
Even with the road fully developed to a national highway standard of 11m, there will still be ample space, in nearly all sections of the two road corridors, to permit land-use activities to continue within the RoW.

1.3 MEASURES TAKEN TO MINIMISE RESETTLEMENT
In the preliminary design phase, prior to initiation of the RAP, the engineering design team minimized the numbers of PAPs needing to be resettled and reduced the negative effects on communities by:
- modifying project alignments to avoid unnecessary displacement;
- reducing the width of the RoW or corridor of impact;
- providing access to businesses and residential units that would otherwise be affected by construction;
- using land inside the RoW, but not needed after construction, to relocate people quickly;
- minimizing losses of public property, such as trees within the RoW, by minimizing, where needed, the width to be cleared.

1.4 RESPONSIBILITY
The Royal Cambodian Government (RCG) and the Ministry of Public Works and Transportation (MPWT) are responsible for the implementation of the RAP and other recommendations and guidelines agreed to as part of the RAP process.

In order to satisfy the World Bank's policy, the involved government departments and agencies have endorsed the RAP and have agreed to provide technical and financial assistance to the PAPs who must rebuild their lives, livelihoods and socio-economic networks following their displacement. The RAP is an assistance package, not simply a welfare solution. It has been designed to allow PAPs to help themselves by encouraging them to participate in the selection of appropriate compensation options.

The Project Implementation Unit (PIU) for this project, within the MPWT, is responsible for the overall implementation of the RAP. The Government of Cambodia is fully responsible for the costs of resettlement and the compensation package paid to PAPs. The World Bank may make available funding for technical assistance and capacity building in support of the RAP actions.

2 EXISTING RESETTLEMENT POLICIES AND LEGISLATION

2.1 BACKGROUND
Cambodia has experienced severe social, economic and political disruption during the past 20 years. In 1975 all private property was abolished and all land records were destroyed. During the years that followed people were forced to evacuate urban areas and move to rural areas to take part in forced work camps. Many people died during this period, known as the genocide years (1975-1979), creating a skewed demographic situation with over 30% more women than men in the 40-45 year age group. A large-scale out-migration of adult males from the country during these years compounded this imbalance.

After 1979, people began to return to the urban areas, which had largely been destroyed. Due to the lack of defined property rights, many people returned to occupy vacant land and structures, and a system based on usufruct rights was established. In rural areas, the government assisted groups of families (Krom Samaki) to form units based on the collective ownership of land and assets with a village head (Protean Phum). Land was distributed according to fertility, and families often received several plots of varying quality.
2.2 CURRENT LEGISLATION

The current legislation governing land ownership is the Land Law, October 1992. This Act supersedes any previous legislation through Article 1, which states, “all the land in Cambodia belongs to the State and...the State does not recognize the land property rights existing before 1979.” While the ultimate owner is always the RCG, land registration by private citizens was reintroduced in 1989.

Article 2 gives Cambodians the right to possess and to use land and to inherit the property provided by the State for living and doing business. Article 3 guarantees the user of the land the right to possess, to use and to receive lawful product of the land. Violation of the private property rights is forbidden except when public interest requires it, in cases provided by the law. In this case the property owner has the right to receive, in advance, just and proper compensation.

Article 5 states that “private right is not given in forestry reserves, fishery reserves—land reserved for roads construction and road maintenance, railroad, rivers and seas.”

Additionally, the current legislation recognizes the Right of Occupation as a claim to ownership. “In the estate issue, if any temporary possessor peacefully, honestly, publicly without ambiguity, occupied land for 5 consecutive years and the land is free with no record in the enrolment register and does not belong to anybody, the temporary possessor shall become a legitimate owner of that land.”

Concerning land acquisition, Article 44 of the Constitution of the Kingdom of Cambodia (1993) states that the government’s “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 20 maintains that “nobody shall be forced to transfer his/her ownership, if forcing is not necessarily in the public interest and [if] no proper and just indemnity has been paid to the owner.”

However, while an individual’s rights to ownership and compensation are protected, there is no clearly defined mechanism for land acquisition and amounts of compensation. In the past the government has requested that the provincial governors resolve cases. The governors convened ad-hoc committees to determine land values, and appropriate compensation levels were discussed with affected parties. Under these circumstances individuals have no right to appeal and are obliged to sell.

Furthermore, there is no legal definition of the extent of government land. While the Government of the Kingdom of Cambodia assumes a Right of Way for National Roads of 25 meters from the centerline, this is based on pre-1975 practices and modern legislation specifying the government RoW has yet to be enacted.

Legislation governing the expropriation of land is to go before parliament in the coming months. This will set up the processes to be followed and give guidelines for compensation.

2.3 LAND REGISTRATION

The right to private occupation of land was re-established in 1989. Cambodians are now able to register the land they occupy with the local agricultural or land office, whereupon a certificate of land use and possession is granted. Issuing the title deed is a lengthy process and most offices have a major backlog of applications awaiting processing. People are given a receipt and until the official title deed is issued, this is taken as title for land purchase or sales.

The Land Titles Department (LTD) documents the land registration process, under the jurisdiction of the Council of Ministers. The LTD has four tiers, the national LTD in Phnom Penh, and offices at the Provincial, District and Khum (commune) levels. The granting of land title is a complex procedure requiring the Khum LTD sub-committee, the neighbors and any other interested party to verify the existence of the land and to ensure there are no disputes concerning the plot. The application is then passed to the District LTD with the recommendation that the title deed be issued.
The present legal status of land use in Cambodia can be classified as follows:

- Titled privately owned land is land to which the owner has official title, and both the owner and the Land Titles Department have a copy of the deed.
- Untitled privately owned land is land that is still awaiting the issue of a deed to the owner. The Land Titles Department recognizes the owner.
- Land-use rights certified by the government. In these cases, a receipt for use of the land has been issued. This land-use right is long term, usually lasting for 20-30 years, and is recognized by the Land Titles Department.
- Leased land is leased by the government or private owners, usually for a short period of 2 to 5 years. There is a provision for the owner to reclaim the land if it is needed for development purposes.
- Illegal occupation of government owned land for which no land use rights have been issued. The Land Titles Department does not recognize the use of this land.

In urban areas such as Phnom Penh and Siem Reap a form of ownership registration is practiced. It is referred to as the “Household Book” in which members of a household are listed, along with the address of their residence and an identification number. If members of a household possess a book for their current residence, they are officially authorized to live there, and are not considered squatters.

Illegal occupation of land is the only land-use category affected by this project, as all clearing and resettling is to occur within the 50m-wide RoW belonging to the RCG (as defined by the Land Law, 1992), and all PAPs will simply move back within the existing RoW. Land acquisition is not necessary and thus, Cambodian land expropriation procedures are not described in this RAP.

2.4 RESETTLEMENT POLICY IN CAMBODIA

At present there is no national policy for resettlement in the Kingdom of Cambodia. As a result, the World Bank OD 4.30 will be the guideline followed for this RAP. According to OD 4.30, the main aims of the RAP are as follows:

- Wherever possible, displacement will be reduced or avoided altogether by sensitive design of civil engineering works (e.g. alternative alignments or modifications to the design).
- Where negative impacts are unavoidable, those displaced are to be assisted in efforts to improve, or at least restore to prior levels, their income and standard of living. They will be assisted with the integration into their new settings within the RoW. Particular attention will be given to the needs of the vulnerable groups to be resettled.
- PAPs will be compensated, at replacement cost, for assets lost. Adequate social and physical infrastructure (such as housing plots, community services and facilities) will be provided if necessary. For this RAP the focus of the compensation will be on a ‘shifting-back’ allowance as described in detail in Section 4.5.
- PAPs and host communities will be encouraged to participate in the design and implementation of the RAP.

3. THE SOCIO-ECONOMIC SURVEY AND CENSUS

Cambodian Researchers for Development (CRD), a Cambodian non-governmental organization, was contracted to complete the census and the socio-economic survey of the PAPs. The Bank consultants prepared a draft survey form for CRD, which modified it to create a questionnaire (see Appendix 1). This was reviewed and then adopted by CRD for the census. Based on instructions and strip maps supplied by the Bank consultants, defining the exact distances from the road centerline (per road section) to be included in the CoI, CRD surveyed the PAPs located within this variable-width CoI. CRD initially met with the governors’ offices and Departments of Public Works and Transportation in the two provinces (Siem Reap and Kampot) to alert all local officials that the survey was to be undertaken and to invite the provincial governors’ offices to participate. Both provincial governments