Introduction

The Kingdom of Cambodia seeks an International Development Association credit in support of its Seila Program through a Rural Investment and Local Governance Project (RILGP). The Seila program promotes governmental decentralization and increased local participation.

Within the RILGP, support of the Commune/Sangkat Fund is the key component, promoting village and commune participatory processes for prioritizing investment in small-scale infrastructure or improved public services. However, RILGP also supports a Provincial Planning and Investment Component (PPIC), in which civil works may be initiated and implemented by provincial level officials. Funds allocated to provincial sector departments are intended to provide goods and services in support of priorities identified through local participatory planning processes. But actual identification of specific activities to be undertaken will occur through preparation of an annual Provincial Development Investment Plan and associated planning and budgeting activities.

At present, the scope of activities to be funded by PPIC has not been established. Review and revision of provincial planning and investment processes will occur during the first phase of project implementation. A substantial proportion of allocated funds is likely to be used to improve delivery of community services. However, PPIC funds also may be used to provide physical infrastructure, including roads, irrigation systems, and construction of various community facilities. Such physical works may require land acquisition or loss of access to other resources.

To meet the requirements of World Bank OD 4.30, Involuntary Resettlement, borrowers in Bank-supported projects must avoid or minimize such losses. And, if involuntary imposition of such losses cannot be avoided, measures must be established to improve, or at least restore, the incomes and living standards of those involuntarily affected. In PPIC, specific investments will be determined annually during the course of project implementation; it is therefore impossible to prepare land acquisition and resettlement plans prior to project appraisal. Accordingly, the Kingdom of Cambodia has prepared this PPIC Framework for Land Acquisition and Resettlement. The Framework defines terms and provides guidance for involuntary acquisition of land or other assets (including restrictions on asset use), and establishes principles and procedures to be followed to ensure equitable treatment for, and rehabilitation of, any persons adversely affected. This Framework refers solely to PPIC activities; a separate framework has been prepared for reference to activities sponsored under the Commune/Sangkat Fund.

Key Definitions

Land Acquisition: A process by which any person is compelled to relinquish ownership, possession, control or use of all or part of their land, structures, or other assets. This includes land or assets for which the possessor or user enjoys customary or uncontested access but lacks legal title.
Project-Affected Person: Any person who, on account of the execution of the Project, or any of its components would, as a result of taking of land, have their:
   (i) right, title or interest in any house, land (including residential, agricultural and grazing land) or any other fixed or movable asset acquired or possessed, in full or in part, permanently or temporarily;
   (ii) business, occupation, work, place of residence or habitat adversely affected;
   (iii) standard of living adversely affected; or
   (iv) access to productive assets adversely affected temporarily or permanently.

Replacement Cost: With regard to land and structures, replacement cost is defined as follows:
For agricultural land, it is the pre-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 the 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.

Policy Principles

The fundamental principle incorporated in this Framework is that all necessary measures will be undertaken to improve, or at least restore, incomes and living standards of all persons adversely affected as a result of land acquisition. The Framework further incorporates the major guiding principles espoused in World Bank OD 4.30, and in relevant laws of the Kingdom of Cambodia.

Key Principles of World Bank OD 4.30:

General principles and objectives of World Bank OD 4.30 are as follows:

a. Acquisition of land and other assets should be avoided when feasible and otherwise minimized;

b. If any persons are to be adversely affected, mitigation measures must provide them with sufficient opportunities to improve, or at least restore, incomes and living standards;

c. Lost assets should be replaced in kind, or compensated at replacement cost;

d. Compensation should be paid in full, net of taxes, fees or any other deductions for any purpose;

e. If any persons are required to relocate, transfer costs and subsistence allowances will be paid in addition to compensation at replacement cost for lost structures and other assets.

f. Absence of legal title to land or other affected assets will not be a barrier to compensation or other suitable forms of assistance;

g. Adversely affected persons will be provided information relating to impacts and entitlements, will be consulted as to their preferences regarding implementation arrangements, and will be informed regarding methods and procedures for pursuing grievances.
**Relevant Laws of the Kingdom of Cambodia**

Key provisions of current legislation governing land ownership, resettlement and compensation in Cambodia are established in the national Constitution, the Land Law of 1992, and the Land Law of 2001. Key aspects are as follows:

a. All land in Cambodia is vested in the state. No land ownership prior to 1979 is acknowledged;
b. Registration of land by private citizens has been possible since 1989. Although there is a process for obtaining formal land title, progress has been slow with very few titles being issued;
c. There is provision for land acquisition where the public interest requires it. Where this is done, the registered owner is entitled to “fair and just” compensation.

No laws or regulations specifically relating to land acquisition or resettlement exist, however. In practice, land often is obtained without compensation or through ad-hoc local negotiations. In the case of the Commune/Sangkat Fund component, in which small-scale subprojects to be funded are identified and proposed by local villagers, criteria have been provided by which voluntary contribution of land by villagers in anticipation of project benefits may be deemed acceptable by the Bank. In PPIC, activities for funding are to be proposed by provincial sector departments, and may be of a larger scale potentially affecting a larger number of persons. Therefore, the land needed for physical works or attainment of subproject objectives is deemed to be acquired involuntarily.

**Resolving Inconsistencies:**

This Framework applies to all activities funded under PPIC. In the event of conflict or inconsistency between Cambodian law and Bank principles as established in this Framework, the Kingdom of Cambodia will waive Cambodian law to the extent necessary for effective implementation of this Framework.

**Screening and Planning Procedures**

The Seila Program Task Force delegates planning and budgeting responsibilities to the Provincial/Municipal Rural Development Committee (PRDC) in each participating province. As part of the annual planning process, the PRDC will review all activities proposed for PPIC funding. To obtain PRDC approval, proposals for funding must indicate whether physical works are included. If so, the proposal must describe present land use in the area to be affected, and establish whether any persons are to be affected by land acquisition, loss of structures or loss of access to other resources.

If the proposed activity does not involve any such adverse impacts, then no further resettlement-related planning is necessary. If any persons are likely to be affected, then preparation of a Resettlement Action Plan is necessary. If the proposed activity is likely to affect less than 200 persons, and if the potential impacts are relatively insignificant (e.g., no one must move to a new residence, and no one must resort to different income-generating activities as a result of the project) then a relatively brief plan may be prepared. If more than 200 persons are likely to be adversely affected, or if potential impacts are significant, a full resettlement plan must be prepared.
Simple Resettlement Action Plan

If fewer than 200 persons are likely to be affected, and if the potential impacts are relatively insignificant, the resettlement plan should incorporate the following elements:

a) description of the proposed activity necessitating land acquisition;
b) basic census/survey data identifying impacts and persons to be affected by them;
c) arrangements for in-kind replacement of land, or for compensation at replacement cost;
d) arrangements to ensure adequate performance by contractors relating to compensation for temporary impacts;
e) a schedule of assets (other than land), to be replaced or compensated at replacement cost;
f) an implementation schedule (this should indicate that replacement land will be provided, or compensation will be paid, before land or other assets are taken);
g) a budget indicating estimated costs of implementation and identifying sources of necessary funding;
h) arrangements for disclosure of information, consultations, and procedures for pursuing grievances.

Full Resettlement Action Plan

If more than 200 persons are to be affected, or if any persons are to be significantly affected, a full Resettlement Action Plan must be prepared. This plan includes all of the categories of information specified above, plus a detailed review of impacts on income-earning capacity and plans for economic rehabilitation, detailed arrangements relating to provision of replacement residential housing or business relocation, and arrangements for monitoring resettlement implementation. (Additional guidance on preparation of a Resettlement Action Plan is provided in OD 4.30).

The planning report is to be prepared as part of feasibility studies and will be reviewed as part of the technical assessment process prior to provincial approval of commune plans. Following provincial approval, provision of in-kind asset replacement, other than that to be included in the subproject implementation contract, will be completed before the contract for subproject implementation is signed.

The PRDC bears responsibility for ensuring that all resettlement-related plans are prepared and submitted to the Bank for review. Formal acceptance of resettlement plans by the Bank is required as a condition for disbursement against annual work plans.

Entitlements Relating to Specific Categories of Impact

If substantial acquisition of land or other assets is necessary, the following provisions will be followed in development of mitigation measures:

Loss of agricultural land: Any persons losing a significant proportion (i.e., more than 5%) of their agricultural land must be provided an option to receive in-kind replacement, allowing them to obtain access to land of equal productive value. Such persons also may be offered optional cash compensation at full replacement cost. Those whose land holdings are not significantly affected can be compensated at full replacement cost.
Loss of productive assets: Affected persons losing land upon which seasonal crops are standing must be compensated at the market value of the crop. Those losing perennial fruit or pulp trees should be compensated in cash at net present value.

Temporary loss of land: Any persons temporarily losing access to land must be compensated for losses, and land must be restored following temporary use. Contractors should be informed before bidding in any case where use of private land or damage to private property, including crops, is likely to be necessary, so that compensation or restoration costs can be included in the bid price.

Loss of structures: Project selection and design processes should emphasize avoidance of demolition or relocation of residential or business structures. If demolition is deemed necessary, compensation must be paid to the owner at replacement cost, and transitional assistance may be necessary to help residents or business owners obtain actual replacement premises.

Loss of other assets: Where fixed assets other than land or structures (such as wells or fencing) will be lost, compensation must be paid to the owner at replacement cost.

Consultations and Information Disclosure

Prior to any land acquisition proceedings, potentially affected individuals or communities must be provided with information about the project, its probable impacts, and various forms of assistance they may receive as a consequence. Potentially affected persons should be informed that acquisition of land for PPIC purposes without appropriate compensation is not permitted. Additional information to be disclosed will include: entitlement to replacement in kind or compensation at replacement cost; methods to be used in establishing compensation rates; and procedures for pursuing grievances, including contact information. Following preparation of a draft resettlement plan, the document must be made publicly available, in a language and medium accessible to those potentially affected. Following revisions, if any, the final resettlement plan also must be made publicly available in a similar manner.

In addition to disclosing pertinent information to potentially affected persons, consultations with them is necessary in order to obtain information needed in resettlement planning. In particular, some form of household census survey is necessary to determine the number and identity of affected persons and the range of potential adverse impacts. Consultations also are important in order to solicit affected persons' views or preferences regarding various forms of assistance that may be offered.

Grievance Procedures

If project-affected persons are not satisfied with proposed PPIC implementation arrangements, or are dissatisfied with actual implementation, they can express grievances to the Provincial/Municipal Rural Development Committee. If this does not result in resolution of issues, project-affected persons can also make grievance verbally or in written form to the Provincial Governor, or to the Seila Program Task Force. At each level, specified authorities should record receipt of grievances and reply to the project-affected person or persons within ten days after receiving the grievances. Project-affected persons will be exempted from any administrative or legal charges associated with pursuing grievances.
Sources of Funding for Land Acquisition-Related Activities

As the borrower, the Kingdom of Cambodia carries official responsibility for meeting terms of this Framework, including financial obligations associated with land acquisition. In practice, selection of PPIC activities will occur at the provincial level, and funds necessary to meet all financial obligations associated with land acquisition and resettlement will need to be identified by each participating province. If no source of sufficient funds can be identified, then proposed activities which would entail land acquisition or other resettlement-related costs will be disqualified.

External Monitoring and Supervision Arrangements

An external agency will be contracted to monitor the process of resettlement in any activity for which a full resettlement plan has been prepared. The external monitoring agency would be provided full access to project documents and database to facilitate monitoring process. The external monitoring agency will prepare periodic monitoring reports for submission to the Provincial/Municipal Rural Development Committee as well as to the World Bank. The external monitoring agency will work in accordance with terms of reference prepared by the borrower and agreed by the World Bank.

In the event monitoring shows that PAPs are not receiving entitlements due to them, or there are other problems in implementation in accordance with the Resettlement Action Plan, then the Provincial/Municipal Rural Development Committee will take, on a priority basis, all steps necessary to rectify the situation and ensure compliance with a resettlement action plan.

The World Bank will undertake periodic project supervision in RILGP provinces to assess compliance with Framework requirements, to assess the effectiveness of implementation for any resettlement plans (abbreviated or full-scale) that are subsequently prepared, and to recommend corrective measures that may be necessary to resolve implementation problems or inadequacies. The effectiveness of the Framework, as well as the effectiveness of any subsequent resettlement plans, also will be considered during the project mid-term review.