

**MANAGEMENT RESPONSE TO
THE REQUEST FOR AN INSPECTION PANEL REVIEW OF THE
CAMBODIA LAND MANAGEMENT AND ADMINISTRATION PROJECT**

(IDA Credit No. 3605-KH)

Management has reviewed the Request for Inspection of the Cambodia Land Management and Administration Project (IDA Credit 3605-KH), received by the Inspection Panel on September 4, 2009 and registered on September 24, 2009 (RQ09/08). Management has prepared the following response.

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ABBREVIATIONS AND ACRONYMS

ADB	Asian Development Bank
BABSEA	Bridges Across Borders Southeast Asia
BKL	Boeung Kak Lake
CAS	Country Assistance Strategy
CC	Cadastral Commission
CD	Country Director
CIDA	Canadian International Development Agency
CLEC	Community Legal Education Center
CLP	Council for Land Policy
CM	Country Manager
COHRE	Centre on Housing Rights and Evictions
DCA	Development Credit Agreement
DfID	Department for International Development (United Kingdom)
DP	Development Partner
DPM	Deputy Prime Minister
ERM	Enhanced Review Mission
ESG	Environmental and Social Guidelines
FAO	Food and Agriculture Organization
GSCLP	General Secretariat of the Council for Land Policy
GTZ	<i>Deutsche Gesellschaft für Technische Zusammenarbeit GmbH</i> (German Technical Cooperation Agency)
IDA	International Development Association
INT	Department of Institutional Integrity
IPA	Independent Procurement Agent
ISR	Implementation Status and Results Report
JICA	Japan International Cooperation Agency
JRSC	Jesuit Refugee Service Cambodia
JSDF	Japan Social Development Fund
LAMDP	Land Administration, Management and Distribution Program
LAP	Legal Assistance Program
LASED	Land Allocation for Social and Economic Development
LASSP	Land Administration Sub-sector Program
LEGEN	Environment and International Law Unit
LMAP	Land Management and Administration Project
LMSSP	Land Management Sub-sector Program
LRT	Land Registration Team
MEF	Ministry of Economy and Finance
MLMUPC	Ministry of Land Management, Urban Planning and Construction
MONASRI	Ministry of National Assembly-Senate Relations and Investigations
MPP	Municipality of Phnom Penh
MTR	Mid-term Review
NARLD	National Authority for the Resolution of Land Disputes
NCC	National Cadastral Commission
NCCS	NCC Secretariat
NGO	Nongovernmental organization
OD	Operational Directive
OP/BP	Operational Policy / Bank Procedure
PACP	Public Awareness and Community Participation
PAD	Project Appraisal Document
PMO	Project Management Office
PSR	Project Supervision Report
REOI	Request for Expression of Interest
RFP	Request for Proposals
RGC	Royal Government of Cambodia

ROW	Right of Way
RPF	Resettlement Policy Framework
RVP	Regional Vice President
SDR	Special Drawing Rights
SLC	Social Land Concession
Sr. ML	Senior Minister of Land
TF	Trust fund
TOR	Terms of Reference
TWG	Technical Working Group
TWG-L	Technical Working Group on Land
UN	United Nations
UNCHS	United Nations Human Settlements Programme/Centre for Human Settlements (UN HABITAT)
US	United States

EXECUTIVE SUMMARY

In 2002, the World Bank approved the Cambodia Land Management and Administration Project (LMAP) with the goal of supporting the first phase of the Government's long-term plan to build a modern land management sector. After 20 years of conflict, the land sector in Cambodia was considered one of the most challenging in the world: most land records had been destroyed, there were numerous land disputes, and there was little capacity in the administration with which to rebuild the sector. The Government established the legal framework by passing a new Land Law in 2001 with the full endorsement of civil society and the international development community.

The Project tried to address a complex development challenge. It aimed to support the Government in undertaking 5 sets of activities that would be rolled out in eleven provinces:

1. Development of a land policy and regulatory framework;
2. Institutional capacity development of the Ministry of Land Management, Urban Planning and Construction, and setting up a university program on land management;
3. Development of a land registration system and a land titling program;
4. Strengthening of mechanisms for the resolution of land disputes; and,
5. Development of State land management.

The Project delivered significant development benefits in several areas. It helped establish a modern land administration system which resulted in the registering and titling of more than 1.1 million parcels of land. It also helped put in place key elements of the policy and regulatory framework (e.g., national policies on social land concessions, economic land concessions, and indigenous peoples' land).

Still, it was a risky undertaking in an environment with significant governance challenges. The Project was suspended from June 2006 to February 2007 following an investigation initiated by the Region into corruption issues in seven projects. In late 2008, nongovernmental organizations (NGOs) informed the Bank of concerns about the effectiveness of the Project in regard to poor urban communities. Following the eviction of the Dey Krahorm community in Phnom Penh in early 2009, Management realized that there was an apparent acceleration of evictions in urban areas and was concerned that there might be potential harm to Project-affected people. It responded promptly by commissioning a review of the Project, in particular as it related to resettlement, and started to engage the Government in a dialogue on this topic.

In exploring this issue over the past seven months, Management recognized that there were specific shortcomings in past Project implementation and supervision, some of which were raised by the Requesters.

1. Despite significant Task Team engagement, the Project lost focus on some of the key elements of its original design. Despite several attempts, no NGOs were contracted to support implementation of the Information Dissemination and Community Participation Program, or to provide legal assistance to disadvantaged people under the dispute resolution mechanism. Only partial progress was made in the area of State

land management. Management recognizes that attention had shifted towards fiduciary aspects and the issuance of titles, and that it missed opportunities to engage the Government on the dispute resolution mechanisms in the Project and on how to respond to changing circumstances (e.g., the unanticipated exponential growth of land values and resulting land conflicts in Phnom Penh).

2. Management also recognizes that supervision of safeguards and other social measures should have been more robust. Although the Project included a Resettlement Policy Framework (RPF) that would apply to resettlement from State land in titling areas, the Bank did not focus until early 2009 on the potential connection between specific land disputes and the titling activities under the Project.
3. With regard to the specific claim brought to the Panel, Management concurs with the Requesters that the Borrower is obligated to apply the RPF in this case. The Government does not share that view. Management acknowledges that a lack of specificity in the Project documents and the apparent absence of detailed discussions about the reach of the RPF may have contributed to the Government's understanding of its obligations.

In addition to ordering the review which brought to light the above shortcomings, Management has undertaken a series of actions since February 2009. In consultations with Development Partners and NGOs in Cambodia, Management has repeatedly raised the issue of evictions with the Government – through letters, meetings, and in public statements. The Bank has asked the Government to put a halt to evictions until it finalizes its national legal and policy framework for resettlement and improves the dispute resolution mechanism. The Bank has also offered its assistance in reviewing the draft laws on resettlement and in upgrading resettlement sites around Phnom Penh based on a social needs assessment.

On September 7, 2009, the Government of Cambodia cancelled the undisbursed balance of the LMAP Credit. This constrains options for Management and the Government to address the development needs of the communities that were evicted. Management will continue to focus its overall dialogue with the Government on the need to develop jointly concrete actions for communities that were evicted and those that face involuntary resettlement, including:

- Working with the Government and Development Partners towards ensuring that the communities who filed the Request will be supported in a way consistent with the Resettlement Policy Framework; and,
- Continuing to engage the Government and Development Partners to ensure that communities that need to be resettled in the future benefit from a resettlement policy that meets appropriate standards and from fair and independent dispute resolution mechanisms.

Management will also try to engage the Government in a dialogue on the need to assess other resettlement sites in Phnom Penh and other cities, with the aim of improving their conditions.

Finally, Management and staff are already drawing early lessons from this experience, including improving design and implementation through clearer definitions and shared understanding between the Bank and the Borrower of the applicability of resettlement frameworks.

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(IDA CREDIT No. 3605-KH)**

I. INTRODUCTION

1. On September 24, 2009, the Inspection Panel (the Panel) registered a Request for Inspection (the Request) concerning the Cambodia Land Management and Administration Project (LMAP, or the Project), which is financed in part by the International Development Association (IDA)¹ through Credit No. 3605-KH for SDR19.3 million.

2. ***Structure of the Text.*** This Management Response (the Response) contains the following sections: Section II presents the Request; Section III provides Background Information on the Project; Section IV discusses Special Issues; Section V lays out the Next Steps and Management's Action Plan; and Section VI provides Management's Response. Annex 1 presents, in matrix format, the claims made in the Request and Management's detailed responses to them. Annex 2 shows the Status of Implementation by component and sub-component. Annex 3 is the report of the Enhanced Review Mission. Annex 4 contains a Detailed Timeline on the Boeung Kak Lake Evictions and the Bank's Response. Annex 5 provides the Donor Statement of July 19, 2009 and the NGO Response. Annex 6 presents the Project's Supervision History and Costs. Annex 7 contains a list of Land Sector Reports prepared under the Project. Annex 8 provides a description of the Procurement Process followed for the Community Participation Program and the Legal Assistance Program. Finally, Annex 9 is a guide to legal terms used in the Response.

II. THE REQUEST

3. The Request was submitted by representatives of a commune of the Municipality of Phnom Penh (MPP). The representatives, together with the people they represent, are collectively referred to as "the Requesters" or "REP" in this Response. The Requesters asked the Panel to keep confidential their names, the names of the people they represent and the name of the community.

4. ***Confidentiality of Requesters, communities and sources.*** At their request, the names of the Requesters are treated as confidential in this Response. However, it is important to note that on October 1, 2009, the nongovernmental organization (NGO) that submitted the Request to the Panel issued a press release (jointly with another NGO) in which it identifies itself as the filer of the Request on behalf of Boeung Kak community located in the area known as Sras Chok commune. In its press release, it reiterated the

¹ As IDA forms an integral part of the World Bank Group, the acronym "IDA" and the term "the Bank" are used interchangeably in this Response.

Boeung Kak residents' request to remain anonymous. For the purpose of this Response and to facilitate the Board's understanding of the issues, Management will:

- Identify the geographic area relating to the Request, i.e., Boeung Kak Lake (BKL) and Sras Chok commune, and provide maps (see Map 2 and Map 3); and
- Use the term “the Requesters” or “REP” when referring directly to the presenters of the Request.

5. Attached to the Request is the Executive Summary of a report² on the Project prepared by several NGOs.

6. The Request contains claims that the Panel has indicated may constitute violations by the Bank of various provisions of its policies and procedures, including:

- OP/BP 4.12 Involuntary Resettlement³ and
- OP/BP 13.05 Project Supervision.

III. PROJECT BACKGROUND

7. The Project was financed in part by an IDA Specific Investment Loan of SDR19.3 million (US\$24.3 million equivalent), which was approved by the Board of Directors of IDA on February 26, 2002 and became effective on June 19, 2002. The remaining balance of the Credit was cancelled at the request of the Royal Government of Cambodia (the Government) on September 7, 2009. At the time of the cancellation, SDR13.36 million, approximately 69 percent of the Credit amount, (US\$19.9 million equivalent) had been disbursed.

8. *The Project was the first phase of the Government's Land Administration, Management and Distribution Program (LAMDP)*, which at the time of appraisal (October 2001) was expected to be implemented over a period of fifteen years. The objectives of this Program, as expressed in the Government's Land Policy Statement of May 2001, are: (a) to strengthen land tenure security and land markets, and to prevent or to resolve land disputes; (b) to manage land and natural resources in an equitable, sustainable and efficient manner; and (c) to promote land distribution with equity.

² “Untitled: Tenure Insecurity and Inequality in the Cambodian Land Sector” by Bridges Across Borders Southeast Asia (BABSEA), the Centre on Housing Rights and Evictions (COHRE), and the Jesuit Refugee Service (JRSC); Cambodia (October 2009).

³ OD 4.30, Involuntary Resettlement, was in effect at the time of the Project Concept Note Review and in Management's view is the applicable resettlement policy for purposes of this Request.

PROJECT CONTEXT

Development and the Land Sector in Cambodia

9. Cambodia has one of the highest levels of natural resource endowment per capita in Southeast Asia in terms of arable land, forest, fisheries and water resources. At the same time, it has one of the highest poverty rates in the region.

10. Cambodia has always been a predominantly agrarian society; even in the present decade, more than 70 percent of the population and a higher percentage of the poor are engaged in agriculture, and subsistence consumption absorbs 60-65 percent of agricultural output. The Khmer Rouge regime (1975-1979) was a catastrophe: it treated the population savagely, executing those it considered to be its enemies and brutally enforcing its policies by overworking and abusing its own people. During that time, many Cambodians also died from illness and malnutrition. The total number of deaths is estimated at more than 1.5 million, including the bulk of the middle class. The regime also nationalized production and collectivized agriculture. The already weak economy was destroyed, and the massive loss of human capital resulted in extremely low capacity levels throughout society and the economy.

11. After the Khmer Rouge regime was deposed from Phnom Penh and retreated to the Thai Border in 1979, many people returned to subsistence farming. Most land records, including cadastral maps and title registers, had been destroyed. A small percentage of land was distributed by the Government to families in 1988, and to returnees from refugee camps after the Paris Peace Accords in 1991. The predominant pattern, however, was that the population occupied and farmed land that by default was considered State land, through an informal system of land-holding dependent on recognition from neighbors and local authorities. The economy gradually improved (by the mid-1990s, Cambodia had become self-sufficient in rice production again) but even by 1995 it was performing at a level much lower than before 1975.

12. For almost twenty years after the Khmer Rouge regime, Cambodia struggled through the aftermath of destruction. The first ten years of civil war was followed by a further decade of negotiation to create peace and free elections, with massive external support particularly from the United Nations (UN). Since the final capitulation of the Khmer Rouge in 1998, Cambodia has enjoyed peace and stability. It more than doubled its annual per capita income, from US\$285 in 1997 to US\$593 in 2007.⁴ This growth was accompanied by a profound structural transformation, including integration into the global economy, a shift of jobs from agriculture to manufacturing, a demographic transition, and population migration from rural to urban areas. This process of growth and structural change led to a significant reduction in poverty, from an estimated 45-50 percent in 1993-94 to 30 percent in 2007. Many other social indicators confirm the improvements in welfare, particularly in health and education.

⁴ “Sustaining Rapid Growth in a Challenging Environment”: Cambodia Country Economic Memorandum: World Bank, February 2009.

13. This economic growth, however, has been accompanied by rapidly increasing inequality.⁵ While improvements in living standards at the top of the income spectrum have been dramatic, progress for the less well-off has been gradual and subject to rapid reversal in the face of economic shocks (household, local, national and global). Recent years have seen an increase in evictions and episodes of violent land conflict, in Phnom Penh, other important urban areas and in rural areas. The rapid increase is attributable in part to the high rate of economic growth and rapidly escalating land prices throughout the country. This trend has led to growing concerns about the viability of land sector reforms and has focused international attention on the problem of tenure insecurity.

14. The tension between progress and marginalization has acute consequences for the land sector. A new progressive legal framework has been established (the 2001 Land Law), but other conflicting norms and incentives prevail. At the local level, this leads to an “open-access” regime for land in many areas. “Encroachment” is either anarchic or loosely regulated by local officials. In both cases, tenure is insecure, particularly for the poor and those living on “the fringes” (certain urban settlements and areas on the verges of forests and lakes). Large interests in land are acquired through concession, lease or sale, with official approval from central or sub-national authorities. The lack of transparency of these processes has been acknowledged by the Government. The new institutions for State land management, established under the Land and Forest Laws and associated sub-decrees, are geared to the development of transparent processes for the administration of State lands, but, in practice, there have often been significant divergences from the law.

15. ***The Bank has been widely engaged in land and natural resource management.*** As land underpins the access of the poor to resources, it is a key sector for Cambodia’s development and has been at the center of the engagement between the Bank and the Government over the last decade. Policy reforms in land and natural resource management are supported through analytical work, development policy operations, and investment and technical support operations. To better integrate the Bank’s efforts across land, forestry and biodiversity conservation, the Bank has developed a natural resource management framework which is used in its engagement with the Technical Working Groups (TWGs) on land, agriculture, poverty, environment and water. Land issues are also prominent in Bank studies on agrarian structures and in regular environmental and economic monitoring reports.

16. Land and natural resource management is also one of the three main policy reform focus areas under the Poverty Reduction and Growth Operation (P071103, IDA Grant No. H324-KH). The Biodiversity and Protected Areas Management Project (P065798, IDA Credit No. 3320 KH) piloted measures for ensuring sound management of protected areas, but the project, like others in the natural resource management sector, was subject to investigation by the Department of Institutional Integrity (INT). The Forest Concession Management and Control Pilot Project (P0060003, IDA Credit 3365-KH) was also the subject of an Inspection Panel case and lessons learned from the

⁵ Cambodia Equity and Development Report: World Bank, 2007.

Inspection Panel process have informed analytical work in the sector as well as the design of the Land Allocation for Social and Economic Development (LASED) project (P084787, IDA Credit 4441-KH), which addresses land distribution aspects and therefore complements the land administration focus of the Project.

17. ***The land sector has attracted broad engagement and support from Development Partners.*** The Project has been the major vehicle to date for donor support to the Government's overarching LAMDP. Three of the Development Partners, Canada, Finland and Germany, provided co-financing or parallel-financing to the Project. The Development Partners coordinate their support for LAMDP through the Technical Working Group on Land (TWG-L), which also includes representatives of other development agencies and civil society organizations.⁶ Germany, through the Deutsche Gesellschaft für Technische Zusammenarbeit GmbH (GTZ), provides technical assistance to the Project in the areas of policy development, dispute resolution, State land management and titling. Finland supports the development of a modern, multi-purpose cadastre system. Canada, through the Canadian International Development Agency (CIDA), initially supported LAMDP and Project implementation with grant funding managed by the Bank, but in 2008 it began to provide direct support for technical assistance and investments in three additional provinces, thus expanding the Project's geographical scope. The LASED project is also supported with co-financing from Germany.

18. Other Development Partners have also been active in the land sector. The Asian Development Bank (ADB), together with the Bank and GTZ, contributed to the formulation of Cambodia's overarching land policy in 2001, which provided the basis for the 2001 Land Law. More recently, ADB has worked closely with the Ministry of Economy and Finance (MEF) in the development of a draft resettlement policy and related sub-decree. Denmark has taken a lead role in Participatory Land Use Planning and Commune Land Use Planning. Between 2001 and 2005, UN Habitat,⁷ GTZ, the United Kingdom's Department for International Development (DfID) and Cities Alliance supported an informal settlements program implemented by the MPP.⁸

⁶ Several Development Partners have been involved in land sector discussions in recent years and are kept informed through communications from the Donor Co-Facilitators Germany and Canada. DPs include Ausaid, the European Commission, United Nations Food and Agriculture Organization (FAO), Heinrich Boll Foundation (HBF), International Fund for Agricultural Development (IFAD), International Labour Organization (ILO), Japan International Cooperation Agency (JICA), Japan Ministry of Foreign Affairs (MOFA), NGO Forum, Oxfam GB, Oxfam America, UN Office of the High Commission for Human Rights (UNOHCHR) and the United Nations Development Programme (UNDP).

⁷ United Nations Human Settlements Programme/Centre for Human Settlements (UNCHS).

⁸ The informal settlements program (i.e., the Phnom Penh Urban Poverty Reduction Project) sought to: (a) improve tenure security for urban low-income households in Phnom Penh; (b) review urban planning regulations, standards and administrative procedures; (c) identify sites to which households in environmentally hazardous or economically strategic locations could be moved; and (d) strengthen the capability of central and local government agencies to undertake pro-poor programs for upgrading and

Legal Framework: The 2001 Land Law is Central to the Project

19. Cambodia has made significant progress in developing the legal basis for private and State property rights. A first post-conflict Land Law in 1992 aimed at encouraging land registration but did not provide a clear mechanism or process by which registration could occur.

20. The adoption of the Land Law in August 2001 represented a fundamental reform of land law and administration in Cambodia. A range of observers, including critics of the Government, recognize the law as providing a solid framework for defining and securing the land rights of citizens and addressing the institutional weaknesses of the land sector caused by years of war, deliberate destruction and neglect.⁹ The adoption of the 2001 Land Law was indispensable for the implementation of the Project.

21. The 2001 Land Law addresses the deficiencies of the previous law in a number of key ways. First, it clarifies the nature of property rights and how they are acquired or determined. It clearly allows ownership of all types of land, and protects owners from the taking of land by the State without just and prior compensation. Communal as well as individual land rights are provided for, with special provision for recognizing the claims of indigenous groups.

22. The 2001 Land Law also sets out a two-tiered definition of land held by the State (approximately two thirds of the country).¹⁰ State Public Land is land that falls into certain categories (including property that has a “natural origin such as forests, lakes and riverbanks” and other areas that are “made available for public use” such as parks and roadways).¹¹ State public land cannot be sold or subject to land concessions or long-term leases,¹² nor is it subject to possession rights.¹³ State Private Land is all State land that is not State Public Land. As explained below, it is subject to possession rights in certain circumstances. State Public Land can be converted to State Private Land if it is considered to have lost its public interest use. According to Article 16 of the Land Law,

new urban development. The program identified BKL as an informal settlement in its final report: “*Increasing tenure security and options for new housing in Phnom Penh*,” Cambodia (2004).

⁹ See: *Land and Housing Rights in Cambodia Parallel Report 2009 Submitted to the United Nations Committee on Economic, Social and Cultural Rights*: Land and Housing Working Group (2009) available at: http://www2.ohchr.org/english/bodies/cescr/docs/ngos/CHRE_Cambodia_CESCR42.pdf; and *Land law reform: achieving development policy objectives*: John W. Bruce, ed. (World Bank, 2006).

¹⁰ Including 3.3 million hectares (18 percent of total area of the country) of protected areas and 8.1 million hectares (44 percent) of forest estate, and urban (high value) land.

¹¹ Land Law (2001), Article 15.

¹² Land Law (2001), Article 16.

¹³ Land Law (2001), Article 16 (see discussion of extraordinary acquisitive possession below).

such conversion requires the passage of a Law – in other words, a Sub-Decree or *Prakas* would not be sufficient for this purpose.¹⁴

23. The cornerstone of the 2001 Land Law is the right of a person to claim a possessory right over land leading to ownership (extraordinary acquisitive possession) in the following circumstances:

- The person possessed the property prior to August 30, 2001¹⁵ and the possession of property was unambiguous, non-violent, notorious to the public,¹⁶ continuous and in good faith.¹⁷
- The person acquired or inherited the property in good faith from someone who was a legitimate possessor as set out in the bullet above.¹⁸
- The land in question must be able to be lawfully possessed – most importantly, it cannot be State Public Land.¹⁹ By contrast, State Private Land on which people had settled prior to August 30, 2001 is frequently the object of claims to possessory rights.

24. The 2001 Land Law also puts in place the key features of a modern land administration system, thus providing a solid basis for the registration and titling activities and the institution building that the Project was designed to support. Title VI of the Law (on Cadastre) provides for both systematic titling (covering all holdings in a given area) and sporadic titling (“on demand” titling, covering one parcel at a time). When read together with the relevant implementing regulations, it provides the legal basis for the adjudication of rights through a transparent and participatory process, including the mediation of disputes at field level and the resolution of disputes by a newly-created Cadastral Commission.²⁰ The 2001 Land Law also consolidates in the

¹⁴ Royal Decree 0806/339, dated August 2006 on “Temporary principles and rules on transferring the public property of the State and public legal entities to private property of the State” does state that conversion from State Public Land to State Private Land can be effected by Sub-Decree. This appears to conflict with above-mentioned provisions of Article 16 of the Land Law. In the event of a discrepancy, a Law is considered superior to a Royal Decree.

¹⁵ Land Law (2001), Article 30.

¹⁶ A legal term meaning conspicuous, capable of being observed by others, not hidden or secret.

¹⁷ Land Law (2001), Articles 32 and 38.

¹⁸ Land Law (2001), Articles 39 and 71.

¹⁹ Land Law (2001), Articles 16 and 43.

²⁰ The Cadastral Commission has primary jurisdiction in disputes over unregistered land. The National Cadastral Commission is chaired by the Minister for LMUPC and can adjudicate disputes. Provincial and District level commissions have also been established. At these levels the Commission only has the power to conciliate. Decisions of the Cadastral Commission are subject to judicial review (see: Land Law (2001) Article 47 and Sub-decree No. 47 of 2002 on the Organization and Functioning of the Cadastral Commission).

Cadastral Administration exclusive jurisdiction to “determine the owner, the nature and the measurement of land.”²¹

25. At the time of Project commencement, several Sub-Decrees and Regulations remained to be drafted for implementation of the 2001 Land Law. These were to be addressed during Project implementation²² and included detailed procedures for systematic titling, sporadic titling, the Cadastral Commission, State land management, economic concessions, social land concessions (SLCs) and titling of indigenous lands.

PROJECT DESCRIPTION

26. *The Project was designed as the first phase of a longer term program to support two of the three foundations of the Country Assistance Strategy (CAS)²³ in effect at the time:* (a) good governance, including an efficient and accountable public administration and a credible legal and judicial framework that safeguards basic human and property rights; and (b) greater access for the poor to basic social services and economic opportunities.

27. *The Project Development Objectives specified in the Project Appraisal Document (PAD) were to improve the security of land tenure for urban and agricultural land holders and to promote the development of efficient land markets* through: (a) the development of adequate national policies, a regulatory framework, and institutions for land administration; (b) the issuance and regulation of titles in rural and urban areas; and (c) the establishment of an efficient and transparent land administration system.²⁴

28. **Project components.** The Project, initially designed to be implemented in eleven provinces²⁵ and municipalities, had five components (DCA Schedule 2, PAD, page 8 and PAD Annex 2).²⁶

²¹ Land Law (2001), Article 235.

²² Two dated covenants were included in the DCA: (a) issue, no later than July 1, 2002, the sub-decree setting forth the organization and functions of the cadastral administration. This was done in May 2002; and (b) issue, no later than December 31, 2002, a ministerial instruction, setting forth the detailed implementation arrangements for the Cadastral Commissions. This was done in August 2002. The legislative piece that lagged seriously behind was the sub-decree on indigenous peoples' access to land, which was only issued in early 2009.

²³ Report No. IDA/R2000-15 [IFC/R2000-23].

²⁴ Schedule 2 of the Development Credit Agreement (DCA) articulates the objectives as: “*The objectives of the Project are to assist the Borrower in its efforts to implement the Program, which includes: (i) the development of adequate national policies, a regulatory framework and institutions for land administration; (ii) the issuance and regulation of titles in rural and urban areas in the Project Provinces; and (iii) the establishment of an efficient and transparent land administration system.*”

²⁵ The Project area was later expanded to 14 provinces.

²⁶ In the DCA these components are described as “Part A, Part B, etc...” For the sake of clarity this Response will use the PAD terminology i.e., “component.”

- *Component 1: The development of land policy and a regulatory framework (Total cost US\$2.8 million, of which IDA US\$1.8 million).* The component was designed to support the formulation of policies for land administration, management and distribution through: (a) the development of the capacity of the Secretariat of the Council for Land Policy (CLP) in policy analysis and development; (b) the formulation of key policies in the areas of land management, administration and distribution; (c) the drafting of sub-decrees for the implementation of the 2001 Land Law and other legal instruments needed to implement the Project; and (d) the dissemination of policies, laws and procedures.
- *Component 2: Institutional development (Total cost US\$6.4 million, of which IDA US\$3.7 million).* The component was designed to provide support to four main areas: (a) the long-term institutional development of the Ministry of Land Management, Urban Planning and Construction (MLMUPC); (b) Project management to implement the Project; (c) the establishment of a land management and administration education program in an established university; and (d) the development of the private surveying industry.
- *Component 3: A land titling program and the development of a land registration system (Total cost US\$20.4 million, of which IDA US\$16.7 million).* The component's purpose was to support the issuance of first time land titles and the establishment of a land registration system to register land transactions, to include: (a) information dissemination and community organization; (b) a systematic land titling program; (c) a sporadic land titling program; and (d) the development of an efficient, transparent and effective land registration system.
- *Component 4: The strengthening of mechanisms for the resolution of land disputes (Total cost US\$1.7 million, of which IDA US\$1.0 million).* The component was designed to strengthen the resolution of disputes by the MLMUPC as an element in the provision of tenure security in the titling process. The National Cadastral Commission (NCC) was to be established according to a framework approved by the CLP under one or more sub-decrees; the component's purpose was to build the institutional capacity of the NCC through the provision of technical assistance, office equipment, maps, training, public education and vehicles. The component was also to provide support through the MLMUPC to the Cadastral Commissions at provincial (and, in some cases, district) level with similar inputs. Because parties bringing disputes before the commissions were expected to have significantly different financial resources, the component was also designed to contract selected national NGOs to provide legal aid services to the poor and disadvantaged in land disputes.
- *Component 5: Land management (Total cost US\$2.6 million, of which IDA US\$1.1 million).* Before the Project, there were no maps showing the different classes of land tenure and land use arrangements. The purpose of the component was to support the MLMUPC in preparing land use and classification maps in the Project provinces through: (a) the clarification of procedures for the definition of different classes of land (such as forest land, protected area land, private land,

State Public and Private Land, and others); (b) the procurement of aerial photographs and satellite images, as needed; and (c) the preparation of land classification maps for each of the Project provinces (showing the boundaries of forests, protected areas, land under private, public and concession use, etc.).

Table 1. Project Financing Plan at Appraisal (US\$ million)

Source	Local	Foreign	Total
International Development Association	15.70	8.60	24.30
Borrower	2.60	0.00	2.60
Finland: The Ministry for Foreign Affairs	0.31	3.19	3.50
Germany: The Federal Ministry for Economic Cooperation and Development (BMZ)	0.31	3.19	3.50
Total	18.92	14.98	33.90

29. **Project Coordination and Oversight.** The MLMUPC was responsible for overall Project implementation and a Project Management Office (PMO), headed by a Project Director, was established within MLMUPC to coordinate Project activities. The Project Director reported to the Senior Minister, MLMUPC on matters of Project implementation and to the CLP through its General Secretariat (GSCLP) when seeking policy guidance. Following Sub-decree No. 46 on *Procedures of Establishing Cadastral Index Map and Land Register*, the Provincial/Municipal Governor (under the Ministry of Interior) was responsible for the declaration of adjudication areas (“declaration” of an adjudication area launched the process of systematic land titling). Following declaration and the formation of an Administrative Commission,²⁷ it was possible for Land Registration Teams (LRTs) from the Project to enter and begin the process of training, information gathering and public awareness in preparation for land titling.

²⁷ Under Sub-decree 46 (ANK/BK of May 31, 2002 on the Procedures to Establish Cadastral Index Map and Land Register), the duties of the Administrative Commission were to: (a) arrange the public display of the cadastral index map and the list of owners; (b) receive all complaints, investigate and resolve in accordance with the agreement; (c) make a conclusion on the adjudication record; and (d) make a proposal for providing the right to land to the occupants, or owners, or for keeping the land as State property. Membership of the Administrative Commission includes:

- Representative of the Provincial/Municipal Governor, Chairman;
- Field Manager as Cadastral Officer, member;
- Officer responsible for cadastral administration of the Office of Land Management, Urban Planning, Construction and Cadastre, member;
- District/*Khan* Governor or his representative, member;
- Chief of Commune/*Sangkat* or his representative, member;
- Chief of Village or his representative, member;
- Two trustees (elders) of the adjudication area, members.

30. ***Resettlement under the Project.*** The PAD stated that no eviction, involuntary resettlement or land acquisition was anticipated under the Project. Nevertheless, the DCA provided that the Project had to be carried out in accordance with Environmental and Social Guidelines (ESG) including a Resettlement Policy Framework (RPF) that would be triggered in the case of “*evictions from state land (...) under Parts C (b) and (c) of the Project*” (those relating to systematic and sporadic titling).

31. ***The RPF provided that it would apply to people negatively impacted from three possible sources.*** These were: (a) the eviction from State land of individuals who had occupied it prior to August 30, 2001, the date of the enactment of the 2001 Land Law, following titling of such land in the name of the State;²⁸ (b) the eviction from State land titled in the name of the State of individuals who had occupied it prior to August 30, 2001, because of the need to use such land for the carrying out of civil works under the Project; and (c) the extension by the State of Right of Way (ROW) claims that adversely affected possession rights. The RPF was intended to ensure that people who “*may be negatively affected by the Project will be assisted to improve, or at least restore their living standards, income and/or production capacity to pre-project levels.*”

32. Like comprehensive titling programs elsewhere, the titling component of the Project was by necessity designed to be implemented sequentially, with titling teams focusing on selected adjudication areas first and then moving on to other areas as previous areas were completed. Such an approach is dictated by a variety of financial, institutional, technological and human capacity constraints that make it impossible for titling to be carried out in all places simultaneously. Management has also taken the view that, although there is no explicit discussion in the PAD on the issue, the application of the RPF was intended to follow the same sequencing; as the Project engaged in or supported titling in each newly-declared systematic adjudication area (DCA, Schedule 2, Part C.b) or supported sporadic titling in new locations (DCA, Schedule 2, Part C.c), the coverage of the RPF would expand accordingly. At the same time, due to the Project’s sequenced approach, and due further to the fact that full coverage of any given Project province would not be achieved during the life of the Project, Management has concluded that Project design clearly albeit implicitly contemplated that there would be areas in which the Project was not and would not be active and where it was not contemplated that the RPF would apply.

²⁸ As originally drafted, the RPF focused only on potential displacement associated with civil works and ROW extension. It was only shortly before the Safeguards Meeting in September 2001 that reference to evictions from State land following titling was added. The addition of this language reflected evolving thinking within the Bank at that time as advanced drafts of what is now OP 4.12 were being discussed. Up to that time, land titling was not explicitly considered in Bank policy or practice as an activity that might result in or contribute to involuntary resettlement. By contrast, in discussions surrounding the drafting of OP 4.12, the potential for displacement associated with land titling was addressed. A decision was made to distinguish between the effects of conflicting claims of private parties over private land, to which the policy would not apply, and conflicts involving claims from private parties residing on State land, in which case the policy would apply. The Project RPF was the first such Bank document to reflect this approach.

33. ***The Project was considered to be a “high risk” undertaking at appraisal.***

The Project was understood in advance to be complex and ambitious because it sought to deal simultaneously with multiple issues in land management and administration that were the legacy of the destruction that accompanied the period of Khmer Rouge rule. The unavoidable complexity of the Project and the backdrop of political and administrative inefficiency (ranging from a lack of competence through to corruption) necessarily meant that the Project was a risky undertaking. The PAD Critical Risks assessment (Section F, paragraph 2) rated the overall risk as “substantial” and procurement and financial management risk as “high” (Section E, paragraphs 4.3. and 4.4).

34. Three risks identified in the Critical Risks matrix of the PAD are directly relevant to this Response: (a) that governance does not improve; (b) that Government lacks commitment to ensuring the functioning of the dispute resolution mechanism; and (c) that Government entities and other stakeholders are not able to reach agreement on the process of land classification. After more than seven years of Project implementation, it is evident that these risks did indeed materialize. In the case of the risk relating to dispute resolution the mitigation measure proposed to “*scale back the Project if the (government’s) commitment to a fair process of dispute resolution is inadequate*” was only considered starting in early 2009 when concerns over an acceleration of evictions led Management to commission an Enhanced Review Mission (see below paragraph 45). Similarly, the PAD suggested that the risk of not reaching agreement on the process of land classification could be overcome by supporting a “*consultation process to build broad consensus for decisions*” and “*technical assistance to the council of land policy to reach consensus among the various government agencies.*” A more detailed analysis of the political economy context would likely have identified this view as overly optimistic and that: (a) success in this respect depended on high-level inter-agency coordination; (b) consultation would not necessarily lead to consensus; and (c) numerous actors had strong incentives not to proceed with a transparent and public interest based classification and registration of State land.

35. ***The PAD stated that “the Project will not title land in areas where disputes are likely until agreements are reached on the status of the land.”*** The PAD drew attention to the potential problem that could be caused by the need to classify land and demarcate the boundaries between public and private domains and between tracts of land under the control of different government entities, stating that this “*...will often be difficult and may increase disputes in the short run.*”

36. ***The PAD also made it clear that Project-supported titling processes would not issue titles to “informal” settlers or “squatters” on State land.***²⁹ In other words, the Project was not envisaged as a program for regularizing informal settlements; titling in such areas would only occur if Government had first elected to provide the land to the informal settlers and had taken steps to legalize their occupation in concert with NGOs

²⁹ That is, people occupying State land who do not qualify for the issuance of title under the 2001 Land Law (see paragraph 23 above).

specializing in micro-credit, community organizing and architectural urban planning.³⁰ In the early years of the Project, efforts were under way to address informal settlements through a separate informal settlement program supported by UNCHS, GTZ, DfID and Cities Alliance (PAD, page 20, second and third paragraphs and PAD, pages 87-88; see also paragraph 17 and footnote 7 in this response). That program was discontinued in 2004, and was not replaced; as a result, for the last five years there has been no program to regularize tenure in informal settlements in a manner that would allow them to be titled under the Project.

STATUS OF IMPLEMENTATION

37. ***The Project's main achievements.*** Cambodia has never had a comprehensive land register and as mentioned above land administration systems and expertise that had been in place were destroyed by the Khmer Rouge. The initial conditions were such that the early emphasis of the Project had to be on: (a) creating the regulatory framework to enable implementation of land registration activities under the 2001 Land Law; (b) developing policies, procedures and systems; and (c) training and capacity building for land registration and land dispute resolution. After a slow start-up because of these difficult conditions, the Project took significant steps to establish a modern land administration system which resulted, notably, in the registering and titling of more than 1.1 million parcels of land at an estimated cost of US\$11 per title (*cf.* the estimate at appraisal of US\$30 per title). Key elements of the policy and regulatory framework for State land management and administration were also delivered (e.g., national policies on SLCs, in 2003; on State land management in 2004; on economic land concessions in 2005; and on Indigenous People's Land in 2009). However, because of a weak results framework, achievements against the Project development objectives are difficult to assess. In the absence of relevant baseline data or a defined methodology for collecting data, the improvement in land tenure security cannot be measured. For the improvement of the land market, a beneficiary assessment carried out in 2006 showed an increase in land transactions and the MLMUPC reported an increase in taxes and fees collection for the period 2004-2007 (prior to the Financial Crisis). Similarly, the achievements of the Project have been uneven across components and sub-components, as noted below.

38. ***Implementation progress.*** A description of the current status of implementation of the Project's five components and eighteen sub-components is provided in Annex 2. This includes a matrix of components/sub-components and their implementation status. After seven years of implementation, total disbursements have reached SDR13.36 million (US\$19.9 million) as of September 7, 2009, the date of cancellation of the remaining

³⁰ The PAD (page 20) recognizes that "neither the World Bank nor the Ministry of Land has the comparative advantage in dealing with informal settlers and squatters. It is better for the Project to support the development groups currently working in this field." For the Project to address this issue directly, a different institutional and implementation approach would have been required (PAD, pages 87-88). However, the PAD also emphasizes the need to "coordinate closely" between the Project and informal settlement programs.

balance of the Credit,³¹ or approximately 69.2 percent of the Credit.³² Key implementation progress by component, as of June 2009, is described below.

- *Component 1: The development of land policy and a regulatory framework:* (US\$0.2 million disbursed, 11 percent of the original estimated cost).³³ The implementation of this component was assessed in the latest Implementation Status and Results Report (ISR, Sequence#17, yet to be archived) as “satisfactory.” Key results included: (a) helping formulate land policies and regulations necessary for the implementation of all three pillars of the land sector program; working in collaboration with ADB and GTZ technical assistance, the Project supported the drafting of Sub-decrees and *Prakas* (or regulations) on a number of subjects, including for systematic titling, sporadic titling, the Cadastral Commission, State land management, economic concessions, SLCs and titling of indigenous lands; and (b) enabling increased revenue collection from both land taxes and transaction fees. The remaining challenges include the need to develop regulations and institutional arrangements for land valuation, and to rationalize land taxation rates and procedures so that the majority of “subsequent transactions” are formally registered.
- *Component 2: Institutional development:* (US\$4.7 million disbursed, 127 percent of the original estimated cost). The implementation of this component was assessed as “moderately satisfactory” as it provided support for: (a) the establishment and operation of key administrative functions for land titling within the MLMUPC – units for Technical Audit, Monitoring and Evaluation, Public Relations, Procurement, Finance and Administration Units, as well as the Internal Auditor; and (b) developing a university degree in land management and administration. The remaining challenges include the need to restructure the MLMUPC to conform to the new Organic Law, to forge inter-ministerial coordination in support of State land management, and to develop a privately operated surveying service.
- *Component 3: Land titling program and development of a land registration system* (US\$13.8 million disbursed, 83 percent of the original estimated cost). This component has been the most successful. Key results by June 2009 include over 1.47 million land parcels surveyed, 1.13 million titles signed and 1.07 million titles distributed to beneficiaries. LRTs contributed to these results by implementing public awareness campaigns, providing training to Administrative

³¹ Disbursements are equivalent to 69.2 percent of the Credit when expressed in SDR and to 66.2 percent when expressed in US\$.

³² Canada, through CIDA, provided co-financing (US\$2.3 million equivalent) to the Project that was managed through a trust fund (TF053043). The undisbursed balance of the trust fund (approximately US\$1.363 million) was cancelled on October 9, 2009. Canada has also provided two Bank-executed trust funds (TF094044 and TD09045) that are still active. Finland and Germany are providing parallel financing.

³³ IDA disbursement figures estimated at the time of cancellation.

- Councils and disseminating information on the land titling process at village level although, as discussed below, the Project did not recruit an NGO to lead Public Awareness and Participation Activities as anticipated in the PAD (see paragraph 68). Remaining challenges include promoting increased transparency in access to cadastral information; clearing the obstacles to subsequent registration; and supporting ways to ensure that the titling process is better targeted to poor and vulnerable groups.
- *Component 4: Strengthening mechanisms for dispute resolution* (US\$0.4 million disbursed, 40 percent of the original estimated cost). Results were mixed under this component, which was rated as “moderately unsatisfactory.” The component helped to establish the NCC and create provincial and district-level commissions for mediating land disputes. A joint review of the NCC supported by GTZ and the Bank in 2006 highlighted its lack of decision-making capacity and confirmed weaknesses in treating complex multi-party cases, and those involving the State or “powerful individuals”. Legal assistance for the disadvantaged was piloted with GTZ support, but the Project was not successful in recruiting NGOs to continue this work (see paragraph 68). The effectiveness of the NCC is limited somewhat by the failure of the Project to procure legal aid services, but more fundamentally by the fact that it is embedded in the same systems of weak governance that are also the root cause of the more challenging land disputes that come before it. The lack of an independent mechanism for dispute resolution (the courts suffering from the same core problems as the NCC) is a fundamental challenge to the development of equitable systems for land management and administration in Cambodia.
 - *Component 5: Land management* (US\$0.8 million disbursed, 74 percent of the original estimated cost). The key results from this component, which was rated as “unsatisfactory”, were limited to the development of procedures for land classification and the procurement of aerial photographs needed to support land classification as well as land titling. Implementation of State land mapping and related processes was limited to pilot operations including areas selected for SLCs, three indigenous communal land titling pilots, and a forest demarcation pilot run through an international conservation NGO. The primary challenge in this field is the underlying incentives that various government agencies and actors have to maintain a high level of discretion in the management of State assets and thus keep State land outside of a system which promotes transparent and participatory decision-making in the public interest. The Land Management Sub-sector Program (LMSSP), through its attempt to mobilize critical inter-ministerial coordination, focuses in part on addressing these difficult issues. As with Component 4, it should be acknowledged that the realization of transparent, rule-based systems for land management that cover significant State assets would require a transformation of governance which numerous actors across the system have strong incentives to resist. For these reasons, Component 5 has only been partially implemented (see paragraph 68).

PROJECT MILESTONES

39. The key milestones of the Project's history are summarized in Table 2 below.

Table 2. Summary of Key Milestones

Milestone	Date
Identification Mission	July 12-24, 2000
Concept Review Meeting	November 30, 2000
Preparation Mission	April 23-27, 2001
Consultative Group Meeting (Tokyo)	June 12-13, 2001
Pre-appraisal Mission	July 5-17, 2001
Decision Meeting	October 4, 2001
Appraisal Mission	October 22-29, 2001
Technical Discussions	December 7-10, 2001
Negotiations	December 11-12, 2001
Project Appraisal Document	January 29, 2002
Board Approval	February 26, 2002
Development Credit Agreement Signing	March 27, 2002
Credit Effectiveness	June 19, 2002
Mid-Term Review	September 27-October 11, 2004
Fiduciary Review	July 2004 – September 2005
Suspension of Disbursements	June 6, 2006
Lifting of the Suspension of Disbursements	February 5, 2007
Original Closing Date	December 31, 2007
Extension of the Closing Date to December 31, 2009	December 31, 2007
Enhanced Review Mission	March 30 – April 12, 2009
Enhanced Review Mission Final Report	July 13, 2009
Cancellation of Undisbursed Funds by the Borrower	September 7, 2009
Revised Closing Date	December 31, 2009

40. ***Credit Effectiveness (June 2002).*** The relatively short period (of just less than two years) that elapsed between the initial Project identification and the declaration of effectiveness of the IDA Credit reflects the priority given by the Bank and the Borrower to the issues.

41. ***Fiduciary Review (July 2004).*** Between July 2004 and September 2005, the East Asia Region undertook a Fiduciary Review jointly with the assistance of the Government and with the Bank's INT. Following the Review, INT independent investigations uncovered evidence of corruption, collusion and fraudulent practices on 49 contracts in seven Bank-financed projects (of which four, including the Project, were under implementation and three were already closed at the time of the investigation). The results of this investigation were transmitted to the Region in May 2006.

42. ***Suspension of disbursements under the Credit (June 2006).*** As a result of the INT investigation, disbursements of the Credit supporting the Project were suspended on June 6, 2006, because of mis-procurement on 17 civil works contracts. The mis-procurement resulted in a cancellation of a portion of the Credit and a refund of certain disbursements. In addition, serious fiduciary concerns had been identified related to

performance-based field allowances and delays in the implementation of good governance measures. The Project's Internal Auditor had also identified serious issues regarding informal payments and the misuse of vehicles and equipment. The suspension of disbursements, coupled with the Government's objections to the investigation process (and the approach to sharing information about the evidence of corruption), led to a constrained dialogue between the Bank and the Government.

43. ***Lifting of suspension (February 2007).*** For the Bank to lift the suspension of disbursement, the MLMUPC had to meet the following requirements aimed at reviewing design and reducing fiduciary risks: (a) review the design of the Project and agree on a revised scope; (b) appoint an Independent Procurement Agent to undertake all outstanding procurement activities; (c) apply fiduciary control mechanisms; (d) apply good governance measures to combat corruption and fraud; and (e) undertake a review of existing and proposed technical assistance. On February 5, 2007, the Bank lifted the suspension after determining that the Government had met these conditions.

44. ***Extension of the Closing Date.*** On December 31, 2007, the Closing Date of the Credit was extended by two years, until December 31, 2009, with strong support from the Development Partners. The rationale for extension, in addition to compensating for the months of disbursement suspension, cited: (a) the continued progress of Project implementation, especially in the areas of policy formulation, educational development and systematic titling in rural areas; (b) the Project's success in issuing land titles, having reached the target of one million adjudicated titles; (c) the submission of outstanding audit reports and corresponding efforts to improve management oversight of performance-based field allowances; and (d) the pending negotiations to install an Independent Procurement Agent. Building on this success, the extension expanded the Project to three new provinces to be largely funded by CIDA. There were also at that time internal debates within the Regional Management Team on the duration of the extension. A key reason for the two-year extension was to allow for the procurement of five ICB civil work contracts under International Competitive Bidding to be completed by November 2009. Moreover, the extension would allow for deeper work on land policies, institutional reform and incentives for land administration officials. Reflecting the focus on fiduciary matters in the aftermath of the INT investigations and suspension of disbursements, the extension of the Closing Date imposed four conditions related to special audits and reconciling payments made for titles delivered, which had only been partially met by the time of the cancellation.³⁴

³⁴ Progress in implementation of covenants agreed at the time of extension was as follows: (a) an ageing analysis which links payment made for titles delivered and titles adjudicated but not yet delivered was completed; (b) a re-designed Performance-Based Incentive Scheme (PBIS) was completed in January 2009; (c) the delivery of the titles which had been adjudicated has seen very little progress; and (d) the contracting, by May 31, 2008 of an independent technical auditor has not been completed to date. The requirement to conduct the technical audit was reiterated to the Government (letter of October 8, 2009) and it was proposed to the Government that IDA funds could be used to finance this special audit for which an escrow account would be created. Formal confirmation by the Government of its agreement is expected.

45. **Enhanced Review Mission (March-April 2009).** In response to concerns raised following the eviction of Dey Krahorm residents on January 24, 2009³⁵ and threats of eviction in other communities,³⁶ Management requested a Lead Counsel from the Environmental and International Law Unit (LEGEN), who had not previously worked on the Project, and a Senior Social Scientist (former Bank Staff) to undertake an Enhanced Review Mission (ERM) to Cambodia in late March. The Review team was asked to assess the contribution that the Project had made or should make to secure land tenure rights and resolve land disputes, including in urban areas. The ERM report, presented in Annex 3,³⁷ concluded that the Project had delivered clear benefits but also highlighted several shortcomings in Project design, implementation and supervision. The ERM found a disconnect between the Project's institutional, legal and policy achievements and continuing insecurity of land tenure for the poor. The report noted with concern that local authorities were excising land from some adjudication areas without following proper procedures to discuss and agree on boundaries with local communities and without facilitating access to information and dispute resolution mechanisms. The Review team made concrete recommendations on remedial measures and on areas to pursue through further discussion with Government counterparts and other Development Partners, and which provided important inputs to the formulation of Management's course of actions since July 2009.

IV. SPECIAL ISSUES

46. The Requesters claim that the Bank failed to comply fully with its policies and procedures on resettlement and Project supervision. Management proposes to address these claims under two headings:

- Issues related to Boeung Kak Lake evictions and resettlement; and
- Issues related to Project implementation and supervision.

BOEUNG KAK LAKE RESETTLEMENT ISSUE

47. This section describes the events surrounding the involuntary resettlement from the BKL area as well as the actions undertaken by Management since February 2009. Management also addresses the Requesters' claims regarding: (a) deviation from

³⁵ Concerns that were raised with the Bank on February 18, 2009 by BABSEA.

³⁶ Hundreds of families had lived and worked for decades in Dey Krahorm, a market area in central Phnom Penh. In the early hours of January 24, 2009, police and workmen set up road blocks and began to demolish houses and businesses. Families fled in semi-darkness as bulldozers destroyed their houses. By noon, more than 100 families had been evicted and transported to a remote site that lacked even the most basic facilities. On July 17, police entered the area known as "Group 78" in Phnom Penh's Tonle Bassac commune (adjacent to Dey Krahorm) to dismantle homes and remove families. All but one family took cash compensation and left the area. Police then forcibly destroyed the house of the remaining family.

³⁷ The ERM Report, dated July 13, 2009 is also available on the following website of the World Bank Office in Cambodia: <http://siteresources.worldbank.org/INTCAMBODIA>

established legal procedures; (b) application of ESG, including the RPF; and (c) effects of Project activities on customary tenure.

48. ***Chronology of Key Events.***³⁸ Annex 4 provides a detailed timeline of the events surrounding the adjudication of the BKL area (see Maps 2 and 3), the subsequent treatment of the area by the Government and the Municipality of Phnom Penh (MPP), and the response of the Bank, donors and NGOs. For purposes of this discussion, the key events are as follows:

- *Declaration as an adjudication area.* Sras Chok commune (in which the BKL area is situated) was declared part of an adjudication area for systematic titling under the Project in May 2006.
- *Demarcation and display.* The demarcation (gathering of survey data in relation to parcels of land) of the area was carried out under the Project at some time between May 2006 and January 2007. The public display of the results of demarcation is recorded as having occurred between January 4 and February 2, 2007. Management understands, based on recently gathered information, that claims from occupants of land in the BKL area of Sras Chok commune were not considered during the demarcation process or display period.
- *Assertion that the area was State Public Land.* During a brief supervision mission visit at BKL in June 2008, Project staff informed Development Partners that MPP claimed that the BKL area was State Public Land. It was explained to the Mission that households in the area were therefore excluded from titling, because it is not possible under the Land Law to assert private claims of legal possession to State Public Land. Management has not received any evidence to support MPP's assertion that the BKL area was State Public Land.
- *Plans for private development of the area.* Despite assertions that the land in question was State Public Land, and hence could not be claimed through legal possession by residents, plans for private development were well advanced prior to the declaration of the area as an adjudication area. Copies of official letters recently obtained by the Task Team indicate that Government had already approved "in principle" the development of the BKL area in accordance with the Shukaku³⁹ master plan in August 2005 (nine months prior to the declaration the adjudication area).⁴⁰ A further letter from the Government to the Governor of Phnom Penh, dated January 2006 (also prior to the declaration of Sras Chok as an adjudication area), indicates that the Government "agrees with" the Shukaku

³⁸ Given available documentation, the following discussion reflects Management's current understanding of the situation. Following a Safeguards Mission in August 2009, the Bank requested information from the Government to confirm the facts around the adjudication of the BKL area. To date, no response has been received.

³⁹ Shukaku Inc. is the development company that leased the BKL area from the MPP in February 2007.

⁴⁰ Letter Number 1274 S.Ch.N. of the Office of Council of Ministers, dated August 5, 2005.

development, understanding that the proposal will involve the filling of all but ten hectares of BKL as well as dealing with the issue of “anarchic” settlements in the area.⁴¹ Final approval for the development appears to have been granted by the Prime Minister on January 25, 2007, with the MPP being sent authorization to sign the lease with Shukaku on January 30, 2007⁴² (subsequent to the declaration of Sras Chok as an adjudication area but prior to completion of the titling process).

- *Only village boundaries demarcated.* According to information provided by MLMUPC staff in June 2008, in the villages around BKL only the village boundaries were demarcated during the systematic titling process and no demarcation of individual parcel boundaries was undertaken. Ownership in the area is understood to be shown on cadastral records as “unknown”. This appears to be the classification that is generally used when State Public Land is encountered during the titling process as well as when land is subject to a dispute that cannot be resolved during the titling process at the field level.
- *On the basis of information currently available, it seems that only one title was issued in the name of the State as a result of the systematic adjudication process.* Management understands that one title was issued to the State for a public gas depot in Sras Chok Village 3 (which is part of the BKL area). Beyond this, to the best of Management’s knowledge, no title in the name of the State was issued for the land in question.
- *A small number of titles were issued sporadically.* Management was informed that a small number of titles (four) were issued for parcels in the affected BKL villages through sporadic titling processes that occurred subsequent to the systematic titling process. Bank efforts to determine the ownership of these parcels has not been successful to date.
- *Private lease signed.* Based on copies of official documents and press reports, Management is aware that MPP signed a lease for the BKL area for 99 years with Shukaku in February 2007. According to the 2001 Land Law, State Public Land can only be subject to short, temporary occupation and use (Article 16). Sub-Decree 129 on *Rules and Procedure on Reclassification of State Public Properties and Public Entities* (2006) further clarifies that leasing of State public property must not exceed 15 years and must not damage the property or change its function in providing public utility.
- *Formal conversion to State Private Land.* In August 2008, Government issued a Sub-Decree to convert the area from State Public Land to State Private Land, more than a year after the lease had been signed. The 2001 Land Law provides

⁴¹ Letter Number 01 S.Ch.N. of the Office of Council of Ministers, dated January 3, 2006.

⁴² Letter Number 109 S.Ch.N. of the Office of Council of Ministers, dated January 30, 2007.

that such reclassifications can only be completed by the issuance of a Law if the property in question has lost its “public interest use” (Article 16).

- *Pressure on residents to relocate.* Though earlier assurances were made that the developer would “... settle problems for residents by constructing residential buildings in the development area...”,⁴³ residents were later reportedly told that they would have to relocate (at least temporarily) and that they could accept one of three compensation/resettlement options provided by the private developer. The residents recently reported that local officials informed them of deadlines for relocation after which the offers of compensation/resettlement would be withdrawn. Further pressure to relocate was brought to bear from August 2008 as the developer started to fill BKL, causing structural damage and flooding to properties around the lake.

49. ***Based on the above chronology and in the absence of information to the contrary, in August 2009 Management concluded that proper procedures were not followed in the adjudication of the Sras Chok commune.*** The procedures to be followed in systematic adjudication areas are set forth in Sub-Decree 46. These procedures require *inter alia*: (a) a public open meeting at the beginning of the process to explain the procedure, clarify legal matters and answer questions; (b) a demarcation process by which the boundaries of each parcel are demarcated with participation of owners or holders of that parcel and neighbors; (c) the inclusion of the demarcated parcels in a cadastral map; (d) an investigation of all rights associated with each parcel and a recordation of those rights in the adjudication record; (e) a public display period for people to view the adjudication; and (f) an opportunity for those objecting to the adjudication record to present those objections to the administrative commission and, if the objection cannot be settled at that level, to the Cadastral Commissions.

50. Incomplete information concerning the Sras Chok adjudication process makes it difficult to assess in detail its compliance with Sub-Decree 46. Based on available information, however, Management believes that residents in the adjudication area of BKL were not given a sufficient opportunity to present claims regarding their possession of the land and to have those claims adjudicated in accordance with prescribed procedures. There is no evidence that a transparent, participatory and reviewable process was used to determine the classification of the land as State Public Land. It appears that the MLMUPC did not collect data or claims concerning privately occupied land within the area. Although there appears to have been a public display of a cadastral map, only village boundaries were shown and ownership was recorded as “unknown” – the designation used when land is unclear or in dispute. There is no evidence that residents were directed to dispute resolution mechanisms that would have allowed them to contest the conclusions set forth in the adjudication record.

51. ***Management concurs that the Borrower is obligated to apply the RPF to displacements or threatened displacements from the Sras Chok adjudication area.*** The

⁴³ Declaration of MPP dated March 13, 2007.

DCA, Schedule 4. III.1 states, in part, that the Borrower shall ensure that the RPF is applied “*in the event of eviction from state land...under Parts C (b) and (c) of the Project.*” Part C (b) of the Project refers to the “*carrying out of a systematic land titling program in the Project Provinces.*” The Sras Chok adjudication area was an area in which the Project was carrying out systematic land titling; hence, the RPF would apply. Management has been unable to determine definitively whether the area in question was formally titled in the name of the State, which is one of the instances in which the application of the RPF was foreseen. Nevertheless, the actions taken by the MPP in leasing the land confirm that the Government had *de facto* made a determination that the land in question was State land. To exclude the application of the RPF to evictions in a Project adjudication area because the adjudication process was apparently not followed to its conclusion and no formal title was issued in the name of the State, would be contrary to the intentions underlying the development of the RPF, as set out in the DCA.

52. ***It should be noted that the Government takes the position that evictions in BKL were not the concern of the Project because the land in question had not, in fact, been titled by the Project.*** Management disagrees with this conclusion for the reasons set forth in the previous paragraph. At the same time, however, it is important to acknowledge that a lack of specificity in the Project documents and the apparent absence of detailed discussions of the reach of the RPF, either during design or implementation, may have contributed to Government’s understanding of its obligations. Until the mid-2009 events at BKL, it appears that there was little explicit consideration given by either the MLMUPC or the Bank to the possibility that even where the titling process is incomplete, actions within an adjudication area could have negative effects that would fall within the scope of the RPF.

53. ***Management does not agree that the preparation of the cadastral index map per se made BKL residents more vulnerable to eviction. On the other hand, the fact that creation of the map was apparently not accompanied by a full adjudication and dispute resolution process put those who may have held possession rights at a disadvantage.*** The Requesters argue that creation of a cadastral index map for the area made them vulnerable to eviction because it removed the protections of Article 248 of the 2001 Land Law, which protects possessors by providing that until a “cadastral index map” is in place covering an area and “ownership rights” have been “fully strengthened” under the law, actions that “hinder a peaceful holder or possessor” of property are unlawful. Management interprets the protections afforded by Article 248 as remaining in place until the cadastral index map has been finalized in accordance with the prescribed process, which involves, among other things, a public display of the proposed map, the full adjudication of rights, the opportunity for comment, access to dispute resolution, and a final determination as to ownership. In the current case, as noted above, there were significant shortcomings in the process that was carried out. Particularly, the protections of Article 248 should not be seen to have been lifted with regard to parcels for which ownership is listed as “unknown” on the Sras Chok cadastral index map. In any event, Management is not aware of any evidence that the Government was depending on the “lifting” of Article 248 protections as a basis for its decisions or actions with regard to the BKL area.

54. ***The Requesters also contend that implementation of a widespread titling process weakens the pre-existing “customary” rights of people who have not been given an opportunity to formalize those rights.*** BKL residents in particular are said to regard themselves as the owners of the land in question and to have documents that indicate recognition of ownership under the customary system. Management is uncertain how the term “customary rights” is being used in this context by the Requesters. As set out above, a key feature of the 2001 Land Law provides that possession rights are recognized as convertible into formal title if certain conditions are met. If done correctly, therefore, titling should strengthen the position of those with possession rights that are recognizable under the Land Law, even if those rights were not formally recognized previously. It is equally apparent, however, that pre-existing rights could be compromised by a process with the shortcomings that were evident in the case of the Sras Chok adjudication, including the apparent absence of a transparent, criteria-based and reviewable decision as to whether the land in question was State Public Land. It is also acknowledged that long term occupiers without valid possession rights under the Land Law might be affected by the titling process if that process were to conclude that they lack legally recognizable rights over land that is determined to be State land. It is in light of this possibility that the RPF was designed, *inter alia*, to apply to people evicted as a result of land being “titled in the name of the State.”

55. ***The Bank Task Team first visited the BKL area in June 2008 as part of a multi-donor supervision mission organized by MLMUPC.*** The focus of the visit was: (a) to identify and resolve obstacles to titling in urban areas; and (b) to find ways to expedite delivery of titles in areas that were surveyed but where no titles had been delivered. The visit was short and discussions took place only with the Project staff. At that time, they informed the mission that the villages surrounding BKL had not received titles because the area was State Public Land and no mention about conversion of the land to State Private Land nor of possible resettlement of these communities were made. Although some of the mission members had read press reports from January 2007 (18 months before) on a 99-year lease for that land to Shukaku, a private developer, no one, either from the Bank or the Development Partners, made the link between possible involuntary resettlements and the Project at that time.

56. In November 2008, a Bank consultant (and former Task Team member) working on a legal review for the Project became aware that some NGOs were preparing a report on the Project and informed the Bank Task Team. Within a week, the Task Team contacted one of the NGOs preparing the report and they met ten days later. The NGOs initially focused the discussion on how to enhance the design of a proposed second phase of the Project so that it would better protect the most vulnerable. On January 12, 2009 the NGOs asked the Task Team for information on the adjudication status in the “Boeung Kak area of Phnom Penh”. , The Task Team provided adjudication status for all Project provinces (subsequently, the Task Team reviewed the status of Boeung Kak 1, Boeung Kak 2, and Sras Chok communes and reported on this status to the NGOs in August 2009). The Task Team continued a constructive dialogue with the NGOs and, in the light of the NGOs’ concerns, facilitated on January 20, 2009 a meeting of the NGOs with the TWG-L. During this meeting, the NGOs advocated that poor and vulnerable communities

– particularly in urban areas – were at disadvantage to obtain land titles and should receive specific support through the Project.

57. ***In the early morning of January 24, 2009, armed police forcibly evicted residents from another urban settlement known as Dey Krahorm.*** In mid-February, NGOs asked to meet with Bank Management to discuss concerns about the inability of poor residents of the Dey Krahorm communities to access the titling system before their eviction. During the same month, one NGO wrote to Management about a neighboring community, “Group 78”, that was also threatened with eviction.

58. ***Once Management realized that there was an apparent acceleration of evictions, and thus potential harm to Project-affected persons, it reacted promptly.*** Following receipt of the first NGO letter, Management followed a multi-pronged approach (see Annex 4 for a detailed timeline):

- Starting in mid-February 2009, the Task Team and Management held several audio-conferences with Operations Policy and Country Services, LEGEN, the Country Management Unit and the Sector Management Unit. Management decided to undertake an independent ERM of the Project to ensure that there was a clear understanding of the obligations and agreed on a series of discussions that the Task Team Management should hold with Government counterparts, NGOs, and Development Partners (see following points).
- The Task Team met with the Project Director in late February and early March to inform him of the concerns. As there was strong concern about the imminent eviction of the Group78 community, Management met on several occasions with higher levels in Government and issued several letters to the Government asking it to place a temporary moratorium on evictions until it finalizes its national legal and policy framework for resettlement. The Bank offered its assistance in reviewing the laws and regulations related to resettlement that Government was drafting with a view to ensuring that they met appropriate standards.
- In early March, Management and the Task Team met with community members from Dey Krahorm, Group 78 and NGO representatives in Phnom Penh to develop a detailed understanding of their concerns.
- Also starting in early March 2009, Management discussed the issues with the Project co-financiers Canada, Germany, and Finland. Subsequently, Management has kept all Development Partners and interested NGOs informed of its actions and its dialogue.
- The ERM mission took place from March 30 to April 12, 2009. Following the mission, the Bank discussed with Government the preliminary findings and a temporary moratorium on evictions was suggested in several meetings (see Annex 4, April 30, May 3 and May 27).

- In light of the early outcomes of the ERM, Management advocated with the Government for a moratorium on evictions and a framework for resettlement. It transmitted the final ERM Report to the Government in mid-July 2009 and once again offered its assistance in designing a national policy, while again calling for a moratorium on involuntary resettlements.
- During the week of July 14-20, Management met with NGOs on two occasions and received detailed briefings of the situation at BKL and Group 78 (where evictions were imminent). On July 14, Management visited the resettlement community where many residents of Dey Krahorm and Group 78 had been relocated, and spoke with some residents to obtain a first-hand understanding of the situation. Management also directly observed the clearance of the Group 78 settlement.

59. ***As the Bank learned about more upcoming evictions, Management took additional actions.*** The Bank took the lead in preparing and issuing on July 16, 2009 a public statement with ten donors, which was subsequently endorsed by more than sixty Cambodian and International NGOs (see Statement in Annex 5). The Country Director met with senior Government officials the next day to urge them to improve State land management practices and to adopt a national resettlement policy, and offered support for improving conditions at the resettlement sites around Phnom Penh, based on social needs assessment. Still, the Group78 community was evicted on July 17, 2009. Out of concern for the BKL community, which was said to be the next to be evicted, the Bank set up a safeguards mission to explore ways to address the issues arising in that area. During this mission, which took place August 3-5, 2009, given the sensitivity of the issues, no meetings could be scheduled with the Project's PMO or other Government officials. On August 17, 2009 Management sent a letter to the Government again urging an immediate moratorium on evictions, outlining possible linkages between the BKL evictions and the Project as well as the Government's obligations under the DCA. The letter also requested information confirming or correcting these claims, but the Government did not respond.

60. ***In late August 2009, Regional Management made a committed effort to resolve the issue at the highest level.*** The Regional Vice President (RVP) travelled to Phnom Penh on August 27-28 to meet with senior government officials. He also met with NGOs and donors. The RVP discussed the ERM report with officials up to the level of the Deputy Prime Ministers (DPM) and in his meetings with senior members of Government he reiterated the Bank's position that further evictions should not take place until an appropriate national resettlement policy was put in place. The RVP also offered to allocate IDA resources to the proper resettlement of the BKL communities. The RVP proposed that the Bank and the Government jointly agree to suspend the Project while work was ongoing on improving the policy framework. Shortly after the visit, on September 4, the Government decided to cancel the remaining amount (the undisbursed balance) of the Credit, and informed the Bank of its decision in writing on September 7, 2009. In a letter acknowledging the Government's cancellation, the RVP pointed out Government's continued obligations and offered Bank support for the proper resettlement of the BKL communities, which had started to resettle in August 2008 once site development work began.

61. *Since July 2009, the Task Team has been gathering available information to identify other potential cases of communities, which like BKL, were displaced or are currently threatened with displacement from adjudication areas without implementation of the RPF.* Despite repeated requests for information from the PMO and the Duon Penh District Cadastral Office, the Task Team has not been able to access up-to-date official maps of adjudicated areas in Phnom Penh or the other 11 project provinces in Cambodia. At present, the Task Team is thus limited to reviewing publicly-available information (e.g., press articles, NGO reports, and other sources) referring to land disputes. As of October 29, 2009, the team has identified eight potential cases involving ten villages (or parts thereof) and potentially affecting as many as 1,300 families.

PROJECT IMPLEMENTATION AND SUPERVISION ISSUES

62. The Requesters claim that the Project's effectiveness was hampered by the incomplete or non-implementation of several components. In the following section, Management presents the context in which the Project was designed and implemented and assesses supervision efforts. It concludes that despite significant Task Team engagement, the Project drifted away from its original design, and as a result three specific components of the Project were not implemented completely. Insufficient attention to safeguards supervision contributed to these implementation gaps. Moreover, Management should have engaged Government more aggressively on the lagging component and taken the opportunity to rectify these shortcomings through Project restructuring.

63. *The Project was identified and designed in a post-conflict state in which the security of land tenure was one of the key development challenges.* As a key part of addressing this challenge, the new Land Law was adopted in August 2001. The Project was designed to support the first phase of a long-term Government effort to move forward with implementation of the new Law and with land sector reforms, described in the PAD as “*expected to be implemented over 15 years.*” Indeed, relevant Bank experience (e.g., in Thailand) demonstrated that land administration reforms of this scope and complexity take at least a generation. The Bank was not alone in this view or in this effort. Many of the Development Partners take a similar view of the complexity of these land issues. These partners were (and remain) involved in land issues, some of them long before the Bank.

64. *The Project was to be a limited and phased-in contribution to a very complex development problem, although the Project Description in the PAD failed to make this suitably clear.* Despite a highly ambitious design in terms of Project scope and reach, funding constraints and an understanding that the Project needed to be phased-in over time meant that the Project was necessarily limited in size relative to the overall needs. Since the Project was being implemented in a country where land disputes and insecurity of tenure were serious concerns, and given that there was little institutional capacity at the time, the decision was made to implement the Project sequentially, beginning with eleven provinces, including the three largest municipalities (Phnom Penh, Siem Reap and Sihanoukville). The Project was never envisaged, nor did it have the resources, to address

all of the land transactions and conflicts in the Project provinces, and it is clear that the Government would not have agreed to a Project of such magnitude. Moreover, while activities in Component 2 “Institutional Development,” Component 4 “Strengthening Mechanisms for Dispute Resolution,” and Component 5 “Land Management” had a provincial reach, others were geographically more limited. In particular, while it was estimated that there were close to 13 million parcels nationwide that needed titling and registration, under Component 3 the Project limited itself to a target of one million titles to be issued under the systematic and sporadic titling activities. In retrospect, a clearer definition in both the DCA and PAD of the Project areas for the various components and sub-components would have helped to clarify to all stakeholders that the Project reach was limited and would have contributed to improving Project design.

65. ***The Task Team invested significant time and resources in supervision during implementation.*** Annex 6 presents the supervision effort of the Task Team. The key features are as follows:

- The first supervision mission was in May 2002, following Board approval of the Credit in February 2002, and there were eleven missions in total, all of them joint multi-donor supervisions, duly documented with *aides-mémoire* and management letters. Seventeen Project Supervision Reports (PSRs) and Implementation Status Reports (ISR) were prepared.
- The frequency of formal supervision was an average of two missions per year, except for the period between December 2005 (Eighth Supervision) and May 2007 (Ninth Supervision), which corresponds to the duration of the suspension of disbursements, during which supervision missions were put on hold.⁴⁴
- Overall, there was good continuity in leadership with three appropriately experienced Task Team Leaders since October 2000⁴⁵ with an effective handover process, including an overlap of two missions during the first transition period and one mission during the second.
- The duration of the missions, which were short at the onset of the Project, got longer over time as implementation issues increased and it became first a project “at risk” and, subsequently, a “problem” project. The residence of the Task Team

⁴⁴ An ISR (Sequence #11) was prepared in June 2006, and the Task Team Leader visited Phnom Penh approximately ten times between December 2005 (Eighth Supervision) and May 2007 (Ninth Supervision) for short technical and follow-up missions.

⁴⁵ From October 1, 2000 to October 2004, a Land Policy Specialist based in Washington DC; from October 2004 to June 2007, a Land Administration Specialist based in Washington DC and assisted by operation officers in the Phnom Penh Office; and since June 2007, a Natural Resources Management Specialist based in Bangkok and assisted by a full-time Land Specialist and a part-time lawyer, both based in Phnom Penh.

Leader in Bangkok starting from June 2007 also allowed more frequent interactions with the Project management team and partners.⁴⁶

- The Bank supervision budget followed a similar trend, with a peak in 2007 around the lifting of the suspension of disbursements, and it was complemented by trust fund resources (for example, to finance, since June 2007, an internationally-recruited land advisor in Phnom Penh).
- An early and detailed Mid-Term Review (MTR) took place at the time of the Sixth Supervision Mission in September-October 2004 when Project implementation was in its early stages. At this stage, a review of social safeguards was undertaken and no adverse social impacts from the Project were identified. It was assumed at that time that all building would be constructed on State Public Land not occupied by people, and safeguards concerns were limited to the issue of ROW. Nevertheless, issues were raised with the Government on a number of points of concern including the performance of the Cadastral Commissions, the lack of an NGO legal aid provider, the improvement of systems for Project monitoring and the apparent need to restructure Component 5 (see below).
- Various evaluation studies were also undertaken by the Bank and Development Partners for which international experts were brought in to inform Project implementation on specific topics. For instance, a Chief of FAO's Land Tenure Service participated in the MTR, and June 2007 and January 2009 supervision missions. A former Director of the University of Wisconsin Land Tenure Center (and former Bank team member), reviewed the implementation of the State Land Management Sub-decree in November 2008.⁴⁷ In addition, there have been at least 19 studies, which informed the dialogue with Government and Development Partners (see Annex 7).

66. ***Following the Mid-Term Review (MTR), both Project performance and the relationship with the Ministry began to deteriorate.*** During the first two years of implementation, the emphasis of the Project had been on: (a) creating the regulatory framework to enable implementation of land registration activities under the 2001 Land Law; (b) building capacity for land registration and land dispute resolution; and (c) developing policies, procedures and systems. All these actions were necessary conditions for the successful implementation of titling activities. At the time of the MTR in October 2004, the Project had surveyed and adjudicated about 139,000 land parcels but only 700 titles had been distributed. This fell well short of the PAD target for 2004 of 192,000 parcels surveyed with a 95 percent issuance rate. This shortfall was noted by MLMUPC with measures suggested to ease bottlenecks. In June 2005, during a tense Seventh Supervision Mission, good governance emerged as an important issue, with the Ministry acknowledging that informal payments were being demanded and paid in the urban high-

⁴⁶ The Task Team Leader visited once or twice per month between June 2007 and September 2009 and maintained an active dialogue with the Project Director, PMO and other Development Partners.

⁴⁷ This was how contact was established with the NGOs who brought the Request for Inspection.

value areas such as Phnom Penh, Siem Reap and Sihanoukville, and in rural areas. Concerns were raised regarding the effectiveness of the Public Awareness and Community Participation (PACP) activities under Component 3 as well as the effectiveness of dispute resolution efforts under Component 4. Project performance ratings were consequently downgraded.⁴⁸ By the time of the Eighth Supervision Mission, in December 2005, the Project Internal Audit Report had been disclosed, INT was carrying out its investigation, and the Bank was expressing serious concerns about procurement issues.

67. ***The focus of implementation shifted towards fiduciary aspects and key outputs, notably the issuance of titles.*** As problems and discord were emerging, the Task Team focused its effort on solving priority issues directly related to Project implementation, especially fiduciary aspects, which ultimately led to the suspension of disbursements from the Credit in June 2006. As tensions around the Project heightened, the Task Team sought to maintain a common viewpoint with the counterpart Ministry, whose priority was to advance what it saw as its core mandate. This common view meant pursuing as priorities certain aspects of the policy process, capacity building and particularly the acceleration of titling in undisputed areas. These priorities led to increasing deviations from the multi-component, holistic design of the Project. Thus, as identified by the ERM report⁴⁹ “...intertwined components and activities of LMAP have been disconnected from each other, with implementation focusing on the most successful parts (training, works, and titling and registering non-disputed land, as well as progress in enhancing and further developing the land policy and legal framework including policies and regulations) while not addressing the other activities that would have helped to fully achieve the development objective to improve land security.”

68. ***Management recognizes shortcomings in supervising the implementation of Sub-component 3(a) - Information Dissemination and Community Participation; Sub-component 4(c) - Legal Assistance for the Disadvantaged; and Component 5 - Land Management.*** As identified by the ERM report, which was commissioned by East Asia Regional Management and referred to in the Request, the following activities were delayed or were not implemented by the time the Credit was closed:

- *Despite repeated attempts, no NGOs were contracted to support implementation of the Information Dissemination and Community Participation Program (Sub-component 3(a)).* Since the Project began, PACP activities had been part of the land titling activities supported by the Project. During the first year of implementation, Community Awareness and Participation Teams were established as part of the LRTs and their work was overseen by the PMO’s Public

⁴⁸ Implementation Progress rating was downgraded to Moderately Satisfactory (MS) and individual performance of all components but one (Component 1) were downgraded to MS (Components 2, 3 and 4) and Component 5 to Moderately Unsatisfactory (MU).

⁴⁹ ERM Report: World Bank, July 13, 2009 (page 5, paragraph 12).

Relations Officer and the FINNMAP⁵⁰ Local Advisor on Community Participation and Gender. These activities,⁵¹ undertaken by LRTs as part of the land titling process, have been implemented with mixed success. At the same time, it was also recognized that the recruitment of NGOs was critical to improve the effectiveness of the PACP process and to enhance community participation, ultimately contributing to enhancing transparency and good governance in the land sector. However, no NGOs were selected despite three procurement attempts.⁵² It is Management's understanding that NGOs did not want to engage in a contract with the Ministry as they felt that would undermine their independence. The Task Team was aware of this issue through regular supervision, but no workable solution was found. With the benefit of hindsight, it was a design flaw of the Project to expect the Government in this case to contract local civil society organizations to do this work. A better design would have been to have NGOs contracted by a party other than Government. As a result, this design aspect has been incorporated into subsequent Bank projects in Cambodia.⁵³

- *After procurement attempts failed, no NGOs were contracted to provide legal assistance to the disadvantaged under the dispute resolution mechanism (Sub-component 4(c)).* During systematic titling, most disputes were resolved by an administrative commission at the local level at the time the LRTs were working. Disputes that could not be resolved as part of the titling process are to be referred to the NCC. Data from MLMUPC suggests a significant backlog in referring these cases. Management recognizes that the Legal Assistance Program (LAP) as originally included in the Project would have provided increased support to poor and vulnerable households involved in land disputes. However, following a pilot program⁵⁴ under the Project implemented during 2003-2004 in Kompong Speu Province using the local NGOs, Legal Aid Cambodia and ADHOC, the Ministry was not successful in awarding contracts to scale up the LAP or to develop alternative mechanisms to provide legal assistance to the poor – probably for the

⁵⁰ FM-International Oy FINNMAP is an independent, privately owned consulting company based in Helsinki, Finland.

⁵¹ For example, the distribution of information material on land registration and land dispute resolution, the preparation of training manuals for LRT staff on PACP in rural and urban environments (a third version was issued in 2009), and radio and television programs.

⁵² See Annex 8a. Three attempts were made to select NGOs: June 2004-February 2005 and October 2006-January 2007 by the Project; and February 2008-July 2009 by the IPA. There was no progress after July 2009.

⁵³ For example, LASED and Demand for Good Governance.

⁵⁴ Pilot work on legal assistance supported by GTZ was started in mid-2003 and completed in January 2004. A final report was submitted by Legal Aid of Cambodia to NCCS. A "Lessons Learned Workshop" was organized on March 12, 2004 with Cadastral Commission representatives from Kompong Cham, Kompong Speu and Phnom Penh, the three priority provinces participating. This workshop helped to gather information on land disputes and potential reconciliation tools. An assessment report of the work accomplished was prepared, in Khmer, and submitted to the Minister, who approved it (in April 2004).

same reason mentioned above.⁵⁵ A significant legal aid movement does exist in Cambodia, however, and Management understands that major disputes such as those in the BKL area, Group 78 and Dey Krahorm, discussed in this Response, have attracted legal and advocacy support without positive outcomes thus far. As in the above case of PACP, alternatives to the recruitment of NGO using the resources of the Credit should have been considered at the implementation stage.

- *Component 5 on Land Management was only partially implemented.* In relation to this component (which was added to the Project at a late stage during Project preparation),⁵⁶ the PAD outlined a program of work: (a) to agree on the procedures to be followed in defining land classes; (b) to acquire aerial photography and remote sensing imagery; and (c) to prepare for each Project province land classification maps showing the boundaries of forests, protected areas, and land under private, public and concessionary use. While the Government had developed an improved legal framework for land classification, its implementation progressed much more slowly and much less systematically than anticipated in the Project design. No provinces, districts or communes as yet have a land classification map showing the boundaries and types of land under public use. Consequently, Component 5 is the least satisfactory component of the Project. At the MTR, the “restructuring” of the component was discussed based on a proposal from the Government to reorient the component, without any explanation being given as to why the outputs of the original design were no longer required. A new structure of the component was not agreed upon because of diverging views among Development Partners and MLMUPC, and therefore the Project description in the DCA was not revised. In short, the Project design, while flagging the importance of the issue and its riskiness (see paragraphs 33 and 34), underestimated the complexity and politically fraught nature of State land management. With the benefit of hindsight, the lack of a detailed plan for inter-ministerial and inter-agency coordination, given the multi-faceted nature of the land management agenda as well as its political and technical complexity was a flaw in Project design. The Council for Land Policy had a defined role to play in coordinating policy development under this component but the Ministry of Interior, Ministry of Agriculture, Forestry and Fisheries and MOE also had crucial but poorly understood roles to play in identification, mapping, registration and management of State land.

69. ***Management recognizes that several opportunities were missed to restructure the Project.*** The need for Project restructuring, initially limited to Component 5, was identified at the MTR in October 2004 but never formalized either by the Task Team or

⁵⁵ See Annex 8b. Two attempts were made to select NGOs, the first from April to November 2005 by LMAP, and the second from February 2008 to August 2009 by the IPA.

⁵⁶ The lack of details on Component 5 in the PAD is noteworthy. By way of contrast, Component 4 of the Project “Strengthening Mechanisms for Dispute Resolution” (estimated cost: US\$1.7 million) receives more than 1½ pages of attention in the Detailed Project Description whereas Component 5 (estimated cost: US\$2.6 million) is described in just ten lines.

by Management, who were absorbed by the Fiduciary Review and its revelations of corruption. This was compounded by the lack of responsiveness of Government in addressing broader implementation issues. By the following mission, the Task Team's efforts were mainly devoted to complying with the Bank's fiduciary responsibility and in parallel to continuing to advise the Ministry on multiple technical areas of the Project. As the difficulty in achieving some of the far-reaching objectives of the Project (such as the establishment of a fair and effective conflict resolution mechanism) and the limited influence of the primary counterparts at MLMUPC in these respects became evident, the focus of the Project shifted and concentrated on the areas of maximum government ownership (particularly the achievement of the one million titles milestone) and what incremental reforms could be pursued on a consensual basis through the other components. In part as a result of the focus on the incremental titling progress, Management missed the opportunity to engage the Government more generally on how to adjust the Project's objectives and design in ways that responded to developments in the land sector as a whole (as noted in paragraph 67 above) as well as to acknowledge some problems in design and implementation.

70. Such a revised approach became part of the Action Plan to lift the suspension of disbursements, which included a requirement for MLMUPC to *"Prepare an Action Plan for the review of the design of LMAP of a scope and in a manner satisfactory to the Association."*⁵⁷ The Action Plan was prepared and submitted to the Bank on February 2, 2007, prior to lifting the suspension, and subsequently used by the MLMUPC to develop a proposal for a Land Administration Sub-sector Program (LASSP) considered as a possible second phase of the Project. There was again recognition at that time that Component 5 was not being implemented as designed but no agreement could be reached on a formal restructuring of the Project. With hindsight, Management should have taken the opportunity of Government's request for extension of the Project Closing Date in December 2007 to restructure when it was clear: (a) that the Project was not going to achieve all its intended objectives; and (b) that components and sub-components were being unevenly implemented. Instead, the Project was extended for an additional two years in 2007. Management acknowledges the fault with an overall assessment of the Project as Moderately Satisfactory: the ISR ratings were upgraded at the time of the extension, based on action plans rather than on concrete results.

71. The need to restructure Component 5 was again identified during the PAD Review undertaken by the Bank in November 2008. The results of this review of the Project indicate that *"activities described in component 5 sub-component iii - preparation of land classification maps for each of the Project provinces showing boundaries of forests, protected areas, land under private use, land under public use, land under concession - have not been implemented as planned. In the absence of strong inter-ministerial coordination mechanisms it has proven difficult to implement this activity as initially envisioned. This change has been duly noted in both the Mid-term review and the LMAP Review mission carried out in June 2007."* Following the PAD

⁵⁷ See Acting RVP Letter dated July 6, 2006, to the Minister of Economy and Finance on the Actions to be completed to lift suspension for the Project.

Review, it was agreed that the Project would be formally restructured to reflect more realistic outputs and outcomes, until it became clear that the Project would not be extended a second time; Management therefore decided not to complete the restructuring because of the short implementation period remaining.

72. ***In retrospect, Management recognizes that supervision of safeguards and other social measures should have been more robust.*** Management recognizes that insufficient attention was paid to reviewing the implementation status of the ESG in the adjudication areas, and acknowledges that supervision reporting on safeguards issues, up to the most recent safeguards mission in mid-2009, could have been improved. Neither safeguards nor resettlement specialists participated in key Project supervision missions⁵⁸ with the exception of the MTR (November 2004). Early missions did raise issues related to the acquisition of land for the construction of new buildings under the Project and for the establishment of ROW under the new law. Prior to 2009, however, the crucial issue of evictions from State land in titling areas was not examined in depth and the Task Team did not focus on the potential connection between specific land disputes /evictions and the titling activities under the Project. It was after communications from NGO advocates and then the ERM (commissioned by the Bank in April 2009) that Management recognized the need to examine these potential linkages and their safeguards implications. The Safeguards Mission in August 2009 (which followed the evictions in BKL) carried out a preliminary assessment of the application of the ESG under the Project. That mission's report resulted in the decision by Management to inform the Government of its intention to suspend disbursements of the Credit for non-compliance with the RPF, an action which was followed by the Government's cancellation of the Credit on September 7, 2009.

73. Management similarly recognizes that supervision was also insufficient with respect to broader social protection measures that were intended to apply more generally throughout Project provinces. As with safeguards, issues such as access to a fair and effective conflict resolution mechanism, community participation and public awareness and information programs did not receive sustained attention during supervision.⁵⁹

⁵⁸ Provision was made in the terms of reference for the participation of a Safeguards Specialist in both the 10th Supervision Mission (June 2008) and the 11th Supervision Mission (January 2009). The Specialist was unable to join the 10th Mission because of a scheduling conflict. The Specialist joined the 11th Mission but had to withdraw almost immediately because of a serious medical problem.

⁵⁹ The activities of the Cadastral Commissions were regularly monitored during supervision. An early analysis of the functioning of the commissions was conducted by GTZ in 2004 with consequent recommendations incorporated into the MTR. A GTZ pilot aimed at improving the performance of the commissions at the District level was the subject of a joint World Bank/GTZ review. Further studies on land disputes were supported under the World Bank's Justice for the Poor program in 2006 and 2008. A theme of these reviews was the difficulty that the system was having in dealing with more complex cases, particularly those involving powerful actors, and while a number of initiatives were piloted to improve the performance of the Cadastral Commissions at the margins central issues remained unaddressed. A key Government response to the issue of land disputes was the establishment in 2006 of a high level National Authority for the Resolution of Land Disputes (NARLD) chaired by DPM Sok An. The Project supervision missions raised concerns that this executive body was not well

V. MANAGEMENT ACTION PLAN

74. *Since April 2009, Management has repeatedly raised the issue of evictions with the Government – through letters, meetings, and in public statements- and offered to assist in finding appropriate solutions.* The land sector issues are and will remain at the core of the high-level country dialogue and of the engagement with the Development Partners. It will be an important consideration in future Bank engagement in Cambodia.

75. *Although the Credit was cancelled by the Government, Management will continue its efforts to address the issues raised in the Request.* This will require close cooperation from the Government, which indicated at the time of the cancellation of the undisbursed balance of the Credit that it is interested in continuing to implement land reforms and that it welcomes the Bank's contributions, as long as the Government retains "ownership and leadership of the decision making process."

76. *In particular, Management will continue to pursue actions on two fronts:*

- It will work with the Government and Development Partners towards ensuring that the communities who are resettled from the BKL area will be supported in a way consistent with the agreed Resettlement Policy Framework ; and,
- It will continue to engage the Government and Development Partners to ensure that communities that need to be resettled in the future would benefit from a resettlement policy that meets appropriate standards and from fair and independent dispute resolution mechanisms.

Moving forward on these fronts will require addressing difficult governance issues on which progress to date has been slow.

77. *Management will undertake these actions under challenging circumstances as relations between the Bank and the Government have been strained by the latest developments.* The Government has repeatedly stated that it does not agree with key conclusions of the World Bank ERM Report and specifically is unlikely to agree that it has continuing obligations, per the Credit Agreement, in the case of BKL.⁶⁰ Further, the

rooted in the legal framework provided by the 2001 Land Law. The NARLD was also the subject of a World Bank funded study which found that it had been largely ineffective in securing land rights for the poor.

⁶⁰ MLMUPC provided a preliminary response to the ERM Report dated August 20, 2009. This response indicated that the Ministry would "consider the ERM report recommendation (...) and adapt them to suit the Cambodian context." However, the response also took issue with a number of points in the ERM Report, noting: (a) "that during project design the decision to exclude disputed areas from registration was made with mutual understanding among development partners including the World Bank"; (b) "that LMAP has followed this decision in implementation"; (c) that LMAP was not meant to be an instrument to deal with informal settlements; (d) that good faith attempts were made to procure PACP and legal aid services from NGOs; (e) that the eviction cases in Phnom Penh "have happened outside the adjudication areas and the scope of LMAP"; and (f) that these "have not resulted from" and "have nothing to do with LMAP."

Government has not responded yet to Management's letter in which the RVP acknowledged the Government's decision to cancel the remaining balance of the Credit but also reminded the Government of its legal obligations under the Credit⁶¹ and offered assistance in undertaking an assessment of the resettlement sites around Phnom Penh. As Management continues to call for a moratorium on evictions and pursues these actions, there is a risk that evictions will continue due to the large number of land disputes, the highly decentralized and localized nature of some of the evictions and the challenging governance environment. Maintaining an on-going dialogue with and gaining cooperation from the Government will be critical in addressing the issues raised by the evictions.

78. ***In its efforts to address issues raised by the evictions, Management will work with the other Development Partners involved in the land sector in Cambodia.*** Management has kept Development Partners informed of concerns and of recent developments in the dialogue with the Government. Many Partners share those concerns, as demonstrated by the joint July 16, 2009 public statement. Still, they do not all fully endorse the analysis or conclusions of the ERM Report, in particular on the applicability of the RPF. They are intent on maintaining an active dialogue with the Government on land, are continuing to develop and finance activities in this sector, and are looking to the Bank to play an active role. The Bank will continue to work with and through Development Partners to increase the probability of a satisfactory outcome.

SUPPORTING THE COMMUNITIES THAT HAVE BEEN AFFECTED

79. ***While the Project delivered benefits to a large number of families in Cambodia, the people of BKL did not benefit from the protection envisaged under the Project's design.*** The process that was started under LMAP with the adjudication of the area was not completed according to the agreed procedures. Residents were not adequately involved in the titling process and they did not have access to a fair and independent dispute resolution mechanism regarding their claims. They were pressured by the MPP to relocate without an adequate consultation and negotiation process. Since the procedures set forth in the RPF were not implemented, it is not possible to reach a definite conclusion on the fairness and adequacy of the packages offered. However, it appears that the proposed packages were not equivalent to what the residents would have received had the RPF been applied.

80. ***Management is committed to undertaking an assessment of the social impacts on the affected communities in BKL and will work with the Government and Development Partners towards ensuring that the communities will be supported in the way they would have been under the RPF.*** Management has already made initial steps in this direction for the BKL area by undertaking the August 2009 Safeguards Mission. In its letter of September 18, Management also offered support to the Government if it were

⁶¹ "... the obligations related to activities undertaken during the life of the Project, and their consequences, continue to apply until the credit is repaid." [Letter from the RVP to the Borrower, September 18, 2009].

to undertake such an assessment.⁶² In the absence of a response from the Government, Management will ask the Government to allow the Bank to undertake the assessment of the households resettled from the BKL area on its own or with the Development Partners. Management will share the outcomes of the assessment with the Government and the Development Partners involved in the land sector. It will aim to develop, together with the Government and the Partners, a plan that would ensure that negative impacts, particularly on poor and vulnerable affected groups, are mitigated and that social and economic opportunities are developed.

81. *Since July 2009,⁶³ Management has repeatedly encouraged the Government to improve resettlement sites around Phnom Penh and has offered to support specific activities that would enhance the living conditions and livelihood opportunities of the people recently resettled from BKL and of those who may still be resettled from the area.* However, by cancelling the remaining balance of the Credit in early September, the Government constrained the range of actions that would have been possible under the Project using the IDA Credit itself. Nonetheless, Management will continue to pursue actions so that people can benefit from a set of protection measures in line with what they would have received under the RPF. Management will pursue with the Government the possibility of using other IDA credits for this purpose, and with donors the possibility of raising trust funds or government funds for this purpose.

82. As noted above (see paragraph 61), Management has already started identifying other potential cases of communities that were resettled or evicted or are threatened with resettlement or eviction from adjudication areas without proper compliance with administrative procedures or implementation of the RPF. Management's intention is for that review to be completed during the month of November; however, its rapid conclusion requires up-to-date information from MLMUPC on areas adjudicated under the Project, which has not been forthcoming. In any areas where the RPF should have been applied, the Bank will adopt the same approach as outlined above for BKL.

83. *Management will also encourage the Government to act on environmental concerns in the BKL area.* It will offer to assist the Government in the designing and commissioning of additional investigations or studies that are critical to evaluate various options to mitigate adverse environmental impacts from the filling of the lake.

⁶² "As the Enhanced Review [Mission] report advises, it is critical to assess the conditions of the resettlement sites in and around Phnom Penh to determine social impacts on relocated residents. The Bank is prepared to provide support for this assessment, and to help the Government develop plans for these sites to meet standards set forth in the Bank's resettlement policy. In order to address these issues, I would propose that a multidisciplinary team meet with RGC [Royal Government of Cambodia] officials in Phnom Penh to explain the Bank's views on the Environmental and Social Guidelines and to explore ways in which the Bank can support the RGC's efforts to develop an action plan for the residents who have already been evicted." [Letter from the RVP to the Borrower, September 18, 2009].

⁶³ At which time Management shared the ERM Report with the Government.

SUPPORTING IMPROVEMENTS IN RESETTLEMENT POLICY AND LAND DISPUTE RESOLUTION FOR THE BENEFIT OF ALL COMMUNITIES AT RISK

84. *Management will attempt to work with the Government to improve the functioning of existing dispute settlement mechanisms and to enhance the capacity of communities and NGOs to call on it.* The Bank-financed Demand for Good Governance Project⁶⁴ is supporting active dissemination of the 2001 Land Law among civil society groups and Cambodian households and aiming to foster its understanding, including the possibilities for dispute resolution under the Law. Options also exist to support civil society initiatives in relation to land dispute resolution under the non-state actor grant making component of the same project. Management acknowledges, however, that while these activities are important, they are unlikely by themselves to have a decisive effect on the problem.

85. *Management will seek to work with the Government to finalize the national legal and policy framework for resettlement so that a fairer and more systematic approach for addressing and mitigating adverse impacts on people from land titling activities can be developed.* The purpose of this legal framework is to ensure that all communities at risk of being resettled are able to rely on a fair and transparent set of rules and procedures to determine their compensation and ensure its timely delivery. On this front, Government has prepared a draft Law on Expropriations. The Government also envisages a sub-decree on resettlement based on a draft prepared with technical assistance from ADB in 2008. Finally, the Government is discussing guidelines on dealing with urban ‘squatter’ settlements. In relation to all of the above, the Bank has indicated that it supports public consultation and is willing to provide advice on good practices.

86. *A number of people have been resettled without appropriate process from sites determined to be State Public Land in Phnom Penh and other cities in Project provinces, and where the Project was not engaged in titling activities.* The Bank will try to engage the Government in a dialogue on the need to assess these resettlement sites and to improve their conditions. This would be important from a social and development perspective.

87. *Management will pursue this dialogue in a multilateral environment.* The TWG-L, in which the Bank is an active participant, intends to develop more detailed proposals to enhance the resettlement framework, the dispute resolution mechanisms and other elements key to the land sector. It has now been agreed among Development Partners that the Ambassador of Germany, who co-leads with Canada the TWG-L from the development side will champion priority proposals in the High Level Policy Dialogue. This will enable the Ambassador to bring issues to the attention of relevant Ministers – beyond the Ministry of Land – on an as needed basis.

⁶⁴ Report No. IDA/42366/KH, approved by the Board on December 2, 2008.

88. ***In addition to this dialogue, Management will use other projects – in implementation or in preparation – to support land tenure and livelihoods for vulnerable communities.*** The current LASED⁶⁵ project and associated Japan Social Development Fund (JSDF) grants are piloting the provision of Social Land Concessions (SLCs) to poor households in different contexts and will continue to focus on ensuring that project features designed to ensure transparency and effective citizen participation are successfully implemented. Additional JSDF grants flagged in the CAS Extension (2008-2011) addressing tenure issues in vulnerable communities – rural and urban– will be pursued as a matter of priority and developed in cooperation with relevant NGOs and government agencies.

89. ***Finally, Management is due to redefine its CAS in 2010.*** Starting in December 2009, Management will initiate a consultative process to (re)define the role of the Bank in Cambodia and to identify areas of cooperation and modalities of support. The CAS will draw on the lessons from the past few years. It will reflect the level of cooperation between the Bank and the Government and will look critically at what can be achieved realistically in the current environment.

LEARNING THE LESSONS

90. This Project has demonstrated the complexities inherent to land sector operations, the difficulties of implementation and supervision in an environment with significant governance challenges, and some of the special development challenges that can arise in post-conflict environment.

91. Some early lessons are already emerging from the work undertaken since March 2009 to review the scope of the Project as well as its implementation challenges, such as:

- Improving design and implementation through clearer definitions and shared understanding between the Bank and Government of: (a) the project areas for the various components and sub-components; (b) the applicability of resettlement frameworks; and (c) the selection criteria for adjudication areas;
- Ensuring that, during implementation of complex projects that aim at addressing fundamental development issues in a comprehensive way, progress on key project outputs (e.g., issuance of titles) is synchronized with progress on the more difficult but critical institutional and policy activities (e.g., land dispute resolution mechanism). This requires a simpler and more robust results monitoring framework, an area in which the Bank has made progress in recent years. It also requires teams to re-appraise long-term projects occurring in fluid environment so that project implementation takes into account changing country conditions and lessons drawn from early years feed into any project adjustments;

⁶⁵ Report No. IDA/42931/KH, approved by the Board on May 20, 2008.

- Strengthening monitoring of key risks potentially affecting project implementation, in particular not letting attention to fiduciary concerns detract from attention to safeguards issues and other risks.
- Developing more refined information management systems that would enable Task Teams and Management to monitor progress in “real” time and enhance their ability to assess risks; and
- Experimenting with a range of mechanisms to contract or partner with civil society organizations as part of a project (as opposed to just through Government).

92. Other lessons, such as the need for enhanced supervision of “high-risk” projects that face fiduciary, safeguards and/or reputational issues, are already being addressed by the Bank as part of other initiatives (e.g., new operational risk framework as part of the Investment Lending reform).

93. Management will set in place a process to learn further and disseminate the lessons, through workshops within the East Asia Region and among land specialists across the Bank.

VI. MANAGEMENT’S RESPONSE

94. According to the Panel, the Requesters’ claims may constitute non-compliance by the World Bank with its operational policies and procedures in regards to involuntary resettlement and project supervision.

95. In this response, Management has presented facts demonstrating that once it realized the potential issues around the resettlement of the BKL communities, it acted quickly. Through the process of exploring this resettlement issue over the past seven months, Management also realized that there were specific shortcomings in past Project implementation and supervision, related to: (a) the implementation of one component (i.e., land management) and two sub-components (i.e., information dissemination and community participation, and legal assistance for the disadvantaged); and (b) safeguards.

96. The Government has now cancelled the undisbursed amount of the Credit and has thus limited the range of corrective measures that can be taken within the domain of the Project. Still, Management believes that it has embarked on a path of actions that it is worth pursuing for the benefit of the affected communities.

97. The actions that would have the greatest impact for the communities – the ones already affected as well as the ones at risk of being affected – require a committed engagement from the Government and can only be developed through dialogue and implemented with the full support of Government and other Development Partners. During Management’s discussions with the Government, it has indicated an interest to continue working with the Bank and other Development Partners to improve management of land disputes. Given the importance of this issue, Management will

continue to have, as the main focus of its overall dialogue with the Government, the need to develop jointly concrete actions for communities that were evicted and the ones that face involuntary resettlement.

ANNEX 1: CLAIMS AND RESPONSES

This is a summary of responses to the specific claims made by the Requesters. The claims are presented verbatim as they are expressed in the Request and redacted by the Panel. In its detailed responses, Management has included many references to the main text of the report. In particular, readers are encouraged to read the sections on Project context (paragraphs 9-25) which provide a more detailed understanding of the 2001 Land Law and the Project description (paragraphs 26-36). A comprehensive description of Management Actions is provided in paragraphs 74-93.

No.	Claim/Issue	Response
INVOLUNTARY RESETTLEMENT (OP/BP 4.12)		
1.	<p>Deviation from Established Legal Procedure.</p> <p>In 2006, the commune of **** district, including the **** area, was announced as an adjudication zone for the purposes of systematic land registration under LMAP. The announcement was made by public notice in the local pagoda. Residents state that when they requested that their land claims be investigated, their requests were denied on the grounds that they were living inside a "development zone." This process deviates from the legal procedure developed by the Project and adopted by the Royal Government of Cambodia. That procedure states that following notice and a public meeting, full investigations should be conducted of the adjudication area. Any competing claims to the land must be resolved in the process, and if this is not possible, they should be referred to the Cadastral Commission for resolution.⁶⁶</p> <p>In **** 2007, the adjudication record was publicly posted in **** commune. The same month, a lease agreement was signed between the Municipality of **** and a private developer, ****, over **** hectares in **** commune (the "development zone"), affecting an estimated **** families residing in the area. According to the LMAP Task Team Leader, the result of the adjudication process in **** commune was the issuance of approximately **** titles and it can be assumed that "most if not all [the plots titled] fall outside the development zone."⁶⁷</p> <p>A letter sent from the Phnom Penh Department of Land Management to the Municipality of **** in</p>	<p>Response. On the basis of available information,⁶⁹ Management concurs with the Requesters that proper procedures, as established by the 2001 Land Law, were not followed by the Government in the adjudication of the Sras Chok commune.</p> <p>Background information:</p> <ul style="list-style-type: none"> • For a summary of the 2001 Land Law, see paragraphs 19-25. • A comprehensive description of events related to the adjudication and subsequent events affecting Sras Chok commune is provided in the narrative (see paragraphs 48-52). • A detailed chronology is provided in Annex 4. • See Maps 2 and 3. <p>Management actions:</p> <ul style="list-style-type: none"> • Following a Safeguards Mission in August 2009, the Bank requested information from the Government to confirm the facts around the adjudication of the BKL area. To date, no response has been received.

⁶⁶ Sub-decree on the Procedures to Establish Cadastral Index Map and Land Register, 2002.

⁶⁷ Email correspondence with Task Team Leader, September 3, 2009.

No.	Claim/Issue	Response
	<p>July 2008 informed the **** that **** and surrounding area had "been studied and demarcated" and the boundaries of the development area set at **** hectares.⁶⁸ This includes the approximately **** hectares of **** plus the surrounding area.</p>	
2.	<p>Eviction Notices and Compensation Options.</p> <p>Families living in the development zone began reporting facing pressure and intimidation to leave the area in **** 2008, when the developer commenced **** in the **** as part of the development. On **** 2009, more than **** households in **** villages and **** were issued their first formal eviction notice, which provided residents with a one-week deadline to accept one of three compensation options.⁷⁰ Compensation options include **** or a flat at **** relocation site (more than **** kilometers outside of the city-centre). The third option of onsite housing requires residents to move to **** relocation site (also more than **** kilometers outside the city) for four years while the permanent housing is constructed in ****.</p>	<p>Response. Management confirms that the description of the events related to the evictions from the BKL area and the nature of the offered compensation package reported by the Requesters is consistent with news reports and documents shared informally with the Bank.</p> <p>Background information:</p> <ul style="list-style-type: none"> • Management understands that the resettlement procedures and compensation options presented to families living in the affected community were developed by the Municipality of Phnom Penh (MPP) without the involvement of the PMO (part of the MLMUPC). • Management observes that the process of public awareness and community participation was flawed (see paragraphs 49-50) and that affected families were pressured by the MPP to relocate without an adequate negotiation process. • In the absence of complete information, it is not possible for Management to reach a definitive conclusion regarding the fairness and adequacy of the packages offered. However, it is clear that the RPF was not applied and it appears that the proposed packages were not equivalent to what the residents would have received had the RPF been applied. <p>Management actions:</p> <ul style="list-style-type: none"> • Since April 2009, Management has repeatedly called on the Government through meetings with senior officials, letters, and a public statement (see the July 16, 2009 public statement with DPs) to put a moratorium on forced evictions from disputed areas in Phnom Penh and elsewhere until a fair mechanism for resolving land disputes could be put in place and a comprehensive legal and policy

⁶⁹ Press reports and official documents, some of which the Task Team received from NGOs during supervision of the project.

⁶⁸ Letter No **** Phnom Penh Department of Land Management, "Boundary demarcation of ****".

⁷⁰ Notification No ****, District Governor of **** District, August 2009.

No.	Claim/Issue	Response
		<p>framework for resettlement developed.</p> <ul style="list-style-type: none"> • Management will seek to work with the Government to finalize the national legal and policy framework for resettlement so that a fairer and more systematic approach for addressing and mitigating adverse impacts on people from land titling activities can be developed. • Management is committed to undertaking an assessment of the social impacts on the affected communities in BKL and will work with the Government and Development Partners towards ensuring that the communities will be supported in the way they would have been under the RPF.
3.	<p>Customary Tenure.</p> <p>Many **** residents regard themselves as owners of the land and are in possession of documents that indicate recognition of ownership under the customary tenure system. The introduction of a widespread and systematic centralized and formalized land registration process under LMAP has weakened recognition of the customary tenure system in Cambodia. As **** residents were unable to transfer their customary rights into formalized land titles under LMAP, the Project not only failed to formalize their tenure but in effect also degraded their pre-existing tenure status.</p>	<p>Response. Although Management is uncertain how the term “customary rights” is being used by the Requesters, it notes that pre-existing rights could have been compromised by the adjudication process used in Sras Chok commune (see paragraph 54).</p> <p>Background information:</p> <ul style="list-style-type: none"> • A key feature of the 2001 Land Law provides that possession rights are recognized as convertible into formal title if certain conditions are met. If done correctly, therefore, titling should strengthen the position of those with possession rights that are recognizable under the Land Law, even if those rights were not formally recognized previously. • It is equally apparent, however, that pre-existing rights could be compromised by a process with the shortcomings that were evident in the case of the Sras Chok adjudication, including the apparent absence of a transparent, criteria-based and reviewable decision as to whether the land in question was State Public Land. <p>Management actions No action.</p>
4.	<p>Cambodian Land Law.</p> <p>According to Article 248 of the Cambodian Land Law of 2001, until an area is covered by the cadastral index maps and ownership rights have been secured, no act that hinders the immovable property of legal possessors is allowed. Article 248 thus provides legal tenure protection to people residing in areas not yet covered by the index maps. The adjudication process that</p>	<p>Response. Management does not agree that the preparation of the cadastral index map per se made BKL residents more vulnerable to eviction. On the other hand, the fact that creation of the map was apparently not accompanied by a full adjudication and dispute resolution process put those who may have held possession rights at a disadvantage (see paragraph 53).</p>

No.	Claim/Issue	Response
	<p>occurred in the **** commune, including the creation of a cadastral index map triggered the lifting of the protection granted by Article 248 against the interference with residents, including through eviction.</p>	<p>Background information:</p> <ul style="list-style-type: none"> Article 248 of the 2001 Land Law, which protects possessors by providing that until a “cadastral index map” is in place covering an area and “ownership rights” have been “fully strengthened” under the law, actions that “hinder a peaceful holder or possessor” of property are unlawful. Management interprets the protections afforded by Article 248 as remaining in place until the cadastral index map has been finalized in accordance with the prescribed process, which involves, among other things, a public display of the proposed map, the full adjudication of rights, the opportunity for comment, access to dispute resolution, and a final determination as to ownership. In the current case, as described in paragraph 48, there were significant shortcomings in the process that was carried out. In Management’s view, it was these procedural deficiencies that created vulnerabilities for the affected residents. <p>Management Actions: No action.</p>
5.	<p>Resettlement Policy Framework.</p> <p>As stated above, the adjudication of **** commune resulted in **** titles being issued outside of the development zone. In the same month, the **** area was leased to a private company by the Municipality of ****. It is unclear whether formal registration of the land to the State occurred, however, the adjudication process, at a minimum, resulted in a <i>de facto</i> determination of the status of the land to be State-owned. Upon entering into the lease agreement, the Municipality of **** claimed in the media that the area was “State land”. Whether the land was formally or <i>de facto</i> determined to be State property following the adjudication process, the result was that persons residing on State land were and continue to be subject to eviction.</p> <p>This scenario was envisaged in the Development Credit Agreement (DCA). In order to mitigate the potential harm of evictions from State property, the DCA requires the application of the Environmental and Social Guidelines, including the Resettlement Policy Framework. The framework has not been applied in the case of ****. Therefore, in addition to the weakening of</p>	<p>Response. Management concurs that the Borrower is obligated to apply the RPF described in the ESG to displacements or threatened displacements from the Sras Chok adjudication area. Under these circumstances, the Government should have prepared resettlement plans for Bank review and approval.</p> <p>Background information:</p> <ul style="list-style-type: none"> See paragraphs 30-32 for an explanation of the application of the RPF under the Project; see paragraph 51 for an explanation of its application to the Sras Chok commune. <p>Management actions:</p> <ul style="list-style-type: none"> See Management Actions under items 1 and 2. The Task Team is gathering information to identify other potential cases of communities that may have been evicted from adjudication areas without proper implementation of the RPF. As of October 29, 8 potential cases have been identified, involving 10 villages (or parts thereof).

No.	Claim/Issue	Response
	the customary land rights of **** residents, the protections that the DCA required have not been implemented by the Government.	
6.	<p>Public Awareness and Community Participation.</p> <p>Furthermore, LMAP failed to implement several important sub-components of the Project, which were designed to prevent harm resulting from the Project. The Public Awareness and Community Participation (PACP) sub-component aimed to inform and involve the Cambodian public in the registration and adjudication process. It was envisioned that NGOs would deliver PACP and allow LMAP staff to focus on the technical aspect of the titling process. However, in the seven years that the Project has run, no NGOs were ever contracted to conduct PACP, and it is clear that there is still a dire lack of knowledge amongst most Cambodians regarding their land rights, the registration system and dispute resolution mechanisms.</p>	<p>Response. Management recognizes that despite repeated attempts, no NGOs were contracted to support implementation of the Public Awareness and Community Participation.</p> <p>Background information:</p> <ul style="list-style-type: none"> • No NGOs were contracted, despite three procurement attempts (see Annex 8A). While the proposed involvement of NGOs in Project implementation was innovative at the time the Project was designed, the mechanism to implement it (i.e., contracting by the PMO) was not adapted to the country circumstances. • LRTs established under the Project and functioning under the direct supervision of the PMO, assumed responsibility for carrying out PACP in Project areas. This was done through Administrative Commissions consisting of local government and local community representatives (see paragraph 68). • Extensive publicity campaigns were carried out by the Project to raise public awareness of the 2001 Land Law and the land titling process during the Project; these efforts included dissemination through print, theater, radio and television. More recently, the Demand for Good Governance Project has also sought to support Land Law dissemination through the Ministry of National Assembly and Senate Relations and Inspection (MONASRI). <p>Management actions:</p> <ul style="list-style-type: none"> • Management will attempt to work with the Government to improve the functioning of existing dispute settlement mechanisms and to enhance the capacity of communities and NGOs to call on it. The Bank-financed Demand for Good Governance Project is supporting active dissemination of the 2001 Land Law among civil society groups and Cambodian households and aiming to foster its understanding, including the possibilities for dispute resolution under the Law. Options also exist to support civil society initiatives in relation to land dispute resolution under the non-state actor grant making component of the same project. Management acknowledges, however,

No.	Claim/Issue	Response
		that neither of these activities is likely to have a transformative effect on the problem.
7.	<p>Dispute Resolution Mechanism.</p> <p>A further concern is the lack of access to a functioning dispute resolution mechanism. The Cadastral Commission was set up to resolve disputes over unregistered land, but its performance is widely seen to be unimpressive and of the more than 5,000 complaints it has received since its inception, 2,000 are still unresolved. It is widely accepted that the Commission cannot resolve disputes involving high profile or well connected individuals against poor communities. The LMAP Project Appraisal Document acknowledged this imbalance, and in an attempt to minimize it, committed to provide legal aid to disadvantaged parties involved in land disputes:</p> <p>The parties who will bring their disputes before the Commission have vastly unequal resources to devote to pressing their claims. The poor will be at a critical disadvantage if they cannot access legal assistance. The Project will provide this assistance, seeking to level the playing field by funding an expansion of the activities of national legal NGOs currently providing such legal assistance to the poor...The Project will provide funds for the MLMUPC to contract with selected legal NGOs for investigation, counseling and representation services for the disadvantaged.⁷¹</p>	<p>Response. Following a pilot financed by GTZ, the Project was not successful in contracting NGOs to provide legal assistance to the disadvantaged under the dispute resolution mechanism.</p> <p>Background information:</p> <ul style="list-style-type: none"> For an overall assessment of the Project component on “Strengthening Mechanisms for Dispute Resolution,” see paragraph 38 (component 4) and paragraph 68. <p>Management actions:</p> <ul style="list-style-type: none"> See action under item 6.
8.	<p>Government Commitment.</p> <p>In recognition of the importance of this aspect of the Project, the PAD also states in the <i>Sustainability and Risks</i> section that a critical risk is that the “Government lacks commitment to ensuring dispute resolution mechanisms function efficiently and fairly.” The corresponding <i>Risk Mitigation Measure</i> was to “maintain an active dialogue with government and development partners to remain abreast of changes in commitment.” The Project would be “scaled back if commitment to a fair process of dispute resolution is inadequate.”⁷² This risk was rated as “substantial.” To date, 7 years from the start of the Project, no legal aid has ever been provided</p>	<p>Response. Management recognizes that while it tried to maintain a dialogue with the Government and Development Partners, it turned its attention towards the area that was of greatest immediate concern to the Bank (i.e., fiduciary issues) and towards the area that had the greatest government ownership (i.e., land titling). In doing so, it missed opportunities to restructure the Project.</p> <p>Background information:</p> <ul style="list-style-type: none"> See discussion on risks identified in the Project at the onset (paragraphs 33-34). See paragraphs 69-71 for the discussion on the

⁷¹ LMAP PAD, page 38.

⁷² LMAP PAD, page 24.

No.	Claim/Issue	Response
	through LMAP.	<p>need to restructure Project.</p> <p>Management actions: No action.</p>
PROJECT SUPERVISION (OP/BP 13.05)		
9.	<p>Project Supervision.</p> <p>The preceding paragraphs show a failure of the World Bank to comply with Operational Directive 13.05 on Project Supervision. Despite the serious problems with the implementation of LMAP in both the case of **** and the Project more widely (see attached Executive Summary of the BABSEA and REP report on LMAP: "Untitled"), consecutive supervision missions indicated satisfactory ratings on most of the LMAP components. The Project was also extended for an additional two years in 2007, without any apparent attempt to rectify the flaws.</p>	<p>Response. Management acknowledges that even though the LMAP was treated as a high-risk project and thus significant resources were dedicated to its preparation and supervision, there were specific shortcomings in supervising: (i) the implementation of one component (i.e., land management) and two sub-components (i.e., information dissemination & community participation, and legal assistance for the disadvantaged); and (ii) the application of safeguards.</p> <p>The Credit supporting the Project was extended for two years on December 31, 2007, for a range of reasons. Management agrees that it would have been opportune to restructure the Project at that time.</p> <p>Background information:</p> <ul style="list-style-type: none"> • The history of Project supervision reflects Management's responsiveness to the need for intensive engagement on technical, legal and fiduciary aspects (See paragraphs 65 and 67 and Annex 6). • Details on shortcomings in supervision are provided in paragraphs 68-72. • Background on the two-year extension of the Closing Date can be found in paragraph 44. <p>Management actions:</p> <ul style="list-style-type: none"> • Management is intent on learning the lessons from these shortcomings: <ul style="list-style-type: none"> (i) improve design and implementation through clearer definitions and shared understanding between the Bank and Government of: (a) the project areas for the various components; (b) the applicability of resettlement frameworks; and (c) selection criteria for adjudication areas; (ii) experiment with a range of mechanisms to contract or partner with civil society

No.	Claim/Issue	Response
		<p>organizations as part of a project;</p> <p>(iii) enhance supervision of projects that also face fiduciary issues, including better and more systematic monitoring in collaboration with NGOs and communities;</p> <p>(iv) re-appraise long-term projects occurring in fluid environments so that project implementation takes into account changing country conditions and lessons drawn from early years feed into any project adjustments; and</p> <p>(v) develop more refined information systems to monitor progress in “real time” and enhance ability to assess risks.</p>
10.	<p>July 2008 Supervision.</p> <p>In July 2008, during a regular Project supervision mission, World Bank staff visited **** commune and were made aware of the problems with the adjudication process and the pending eviction of area residents. REP is not aware of any remedial action taken by the World Bank following this mission.</p>	<p>Response. The Bank Task Team first visited the BKL area in June 2008⁷³ as part of a multi-donor supervision mission organized by MLMUPC. The focus of the visit was: (i) to identify and resolve obstacles to titling in urban areas; and (ii) to find ways to expedite delivery of titles in areas that were surveyed but where no titles had been delivered. The visit was short and discussions took place only with the Project staff. At that time, Project staff informed the mission that the villages surrounding BKL had not received titles because the area was State Public Land and no mention about conversion of the land to State Private Land nor of possible resettlement of these communities was made.</p> <p>Background information:</p> <ul style="list-style-type: none"> • For a full account of the interactions between NGOs and the Bank on the BKL area and the actions taken by Management, see paragraphs 55-60. • An extensive assessment of supervision is provided in paragraphs 65-73. <p>Management actions:</p> <p>No action.</p>
11.	<p>2009 Supervision Missions.</p> <p>The **** case was first raised by REP and **** in a meeting with the World Bank Country Director in February 2009. This meeting led to an Enhanced Supervision Mission, led by World Bank Lead Counsel from Washington D.C. in April 2009, during which the **** case was raised</p>	<p>Response. As acknowledged by the Requesters, Bank Management has taken several steps to address the concerns raised in February 2009.</p> <p>Background information:</p> <ul style="list-style-type: none"> • For a full account of the interactions between

⁷³ Note that the supervision mission occurred in June 2008, not July 2008.

No.	Claim/Issue	Response
	<p>again, along with other cases and broader concerns with LMAP. The Enhanced Supervision Mission led to a Safeguards Review Mission, initiated on 3 August 2009, during which the complainants discussed the applicability of Bank safeguards to the **** case specifically and requested the urgent intervention of the World Bank management in their case. On 14 August, a letter was sent by the Cambodian Housing Rights Task Force to the World Bank Country Director and LMAP Task Team Leader requesting clarification about the applicability of the LMAP Environmental and Social Guidelines and the Resettlement Policy Framework to the ****. This letter again requested that the World Bank intervene urgently in the **** case due to the eviction notice issued to two villages a day earlier. The World Bank met with community representatives and NGOs to discuss issues and concerns related to the case. A week later, Vice President for East Asia and Pacific James Adams visited Cambodia. REP was informed that he raised the **** issue with senior government officials during his visit.</p>	<p>NGOs and the Bank on the BKL area and the actions taken by Management, see paragraphs 55-60.</p> <p>Management actions:</p> <ul style="list-style-type: none"> • See actions under item 2.
12.	<p>Current Status.</p> <p>REP welcomes the efforts made by the World Bank management since February 2009 to address the serious problems with the implementation of LMAP, and specifically the harms suffered by **** residents. However, the harm caused by seven years of inadequate supervision of the Project has in no way been mitigated by the Bank's recent efforts. More than **** families from **** have already been cleared from the area without their land rights being properly adjudicated. In the absence of any legal protections, these families accepted inadequate compensation under conditions of duress. There is no indication that the recent efforts will lead to a more favorable outcome for the remaining families, some of whom have been given an eviction deadline of three weeks. It is evident that the actions taken by the Bank management were too late to prevent the harms now being done.</p> <p>The above may not be an exhaustive list of all World Bank Operational Policies and Bank Procedures being violated by LMAP. Consequently, REP and the **** Community reserve the right to amend this Request for Inspection.</p>	<p>Response. Management considers that the communities of BKL did not benefit from the protection provided under the Project's design.</p> <p>Background information:</p> <ul style="list-style-type: none"> • The Government decided to cancel the undisbursed amount of the Credit on September 4, 2009. It has repeatedly stated that it does not agree with the conclusion of the ERM report regarding the application of the RPF. <p>Management actions:</p> <ul style="list-style-type: none"> • See all above items.

No.	Claim/Issue	Response
13.	<p>Other Areas under LMAP.</p> <p>Finally, it should be noted that **** is not an isolated case. Other urban, rural and indigenous communities throughout Cambodia have been unable to access the land titling and/or dispute resolution mechanisms under LMAP, and thus have not been able to secure their land rights under the formal system developed by LMAP. Some of these communities have experienced increased tenure insecurity and forced evictions.</p>	<p>Response. Management acknowledges that tenure insecurity continues to be a major problem in Cambodia and that the recent increases in land prices have led to increased pressure, especially on vulnerable communities living on land deemed to be State Public Land.</p> <p>Background information:</p> <ul style="list-style-type: none"> • Management is now aware of other areas declared for adjudication under the Project where households have been evicted or are threatened with eviction (see Item 5). • Management is aware that there is a continuing threat of eviction for other households surrounding BKL and there is a continuing threat of land alienation and eviction for vulnerable communities. <p>Management actions:</p> <ul style="list-style-type: none"> • See actions under items 1, 2 and 5.

**ANNEX 2:
LMAP STATUS OF IMPLEMENTATION**

Component/Sub-component	Status
1. Development of Land Policy and Regulatory Framework	The component has made significant progress over the life of the Project. The GSCLP has continued the multi-stakeholder consultations on the Land Policy Paper with a view to finalizing a White Paper in 2009.
(a) Development of the capacity of the Secretariat of the Council of Land Policy	The GSCLP is well established and is able to facilitate consultations on land policy issues among stakeholders. It has been the beneficiary of training and involvement in international seminars, and has been provided with basic office equipment, and TA supported by CIDA trust funds. The main challenge is to obtain the commitment and “buy-in” of other ministries to address cross-cutting issues (e.g., State land demarcation, land taxation, indigenous peoples communal land titling). The development of the LMSSP is expected to provide a platform for inter-ministerial coordination on State land issues.
(b) Formulation of key policies for land administration and management	The Council has prepared or is preparing the following policy documents: <ul style="list-style-type: none"> • Strategy Framework for Land Policy (September 2002) • Policy on Social Land Concessions (2003) • Policy on State Land Management (2004) • Policy on Economic Land Concessions (2005) • Policy on the Development of Indigenous Communities • Policy on the Registration and Right to Use of Land of Indigenous Communities in Cambodia • White Paper on Land Policy (draft December 2009) • Declaration on Land Policy (draft pending approval) • Spatial Planning Policy (preliminary draft) • Housing Policy (under revision; first draft supported by UN Habitat) • Policy on Land Valuation (under development).
(c) Development and drafting of legal instruments	The 2001 Land Law has been followed by nine Sub-decrees and their supporting documentation (letters, proclamations and circulars).
(d) Dissemination of policies, laws, rules and regulations	Dissemination of the 2001 Land Law was supported by the Project’s PACP; MONASRI is also now engaged in dissemination supported by the Demand for Good Governance Project (funded by IDA).

Component/Sub-component	Status
2. Institutional Development	
(a) Long-term institutional development of the MLMUPC	Several training courses, including overseas training, have been carried out. CIDA TF resources for tuition reimbursement has been approved but not yet activated.
(b) Project management	Project management activities are satisfactorily carried out by the MLMUPC's Technical Audit, Monitoring and Evaluation, Public Relations, Procurement, and Finance and Administration Units and the Internal Auditor.
(c) Development of a land management and administration education program	This was successfully achieved through the establishment of a degree course in Land Management and Administration at the Royal University of Agriculture.
(d) Development of a private surveying industry	This was not implemented.
3. Land Titling Program and Development of a Land Registration System	
(a) Information dissemination and community participation	Public awareness and community participation (PACP) activities are carried out by the Land Registration Teams as part of the land titling process. The procurement of NGO support for PACP activities was not achieved.
(b) Systemic land titling program	By December 2007, the PAD targets of one million surveyed and adjudicated parcels, 800,000 signed titles and 760,000 titles distributed to beneficiaries had been surpassed. The revised targets established following the extension of the Closing Date of the Credit are expected to be achieved (the interim target had been met in December 2008). The actual cost per title, as of December 2007, was only one-third of the cost estimated at appraisal (US\$11 <i>cf.</i> US\$30).
(c) Sporadic land titling program	
(d) Development of a modern land registration program	The land registration system and operational procedures have been established. Improved office facilities, with equipment, furniture and materials, have been provided. The land registration database system has been established.

Component/Sub-component		Status
4. Strengthening Mechanisms for Dispute Resolution		
(a) Strengthening the national cadastral commission		The National Cadastral Commission (NCC) was created under the 2001 Land Law and began to function in December 2002. Its Secretariat (NCCS) reported in December 2008 having received 5,038 cases; 1,653 had been resolved, 1,433 dismissed or withdrawn, and 1,952 were pending.
(b) Strengthening the provincial cadastral commissions		Provincial-level Cadastral Commissions are functioning in all Project provinces. In 2005, GTZ initiated a pilot to introduce Mobile Teams to bring additional skills to targeted areas in an effort to reduce the backlog of pending cases.
(c) Legal assistance for the disadvantaged		Not fully implemented. A Legal Aid pilot was implemented with GTZ support. The pilot was carried out between 2003-2004 in Kompong Speu Province using the NGOs Legal Aid Cambodia and ADHOC.
5. Land Management		
[Note: activities under this component were “revised” at the Mid-term Review. A new structure of the component was proposed by the Government and modified by the Bank’s Task Team. It was not formally adopted via an amendment to the DCA, but Project reporting post-MTR was based on the “revised” structure.]		The Government and the Bank agreed in early 2009 that the policy framework needed to be more fully developed to facilitate the implementation of land management activities. Under the GSCLP, the Government initiated the preparation of a special planning policy and a land valuation policy. In the absence of an agreed LMSSP, the Project is no longer expected to produce many of the outputs planned for this component.
Original sub-components	(a) Clarification of procedures for defining land classes (e.g., forest, protected areas, and land under private, public and concession use)	The land classification policy was approved by the CLP and the guidelines were prepared. The Policy Document of State Land Management was prepared (2004) and the State Land Sub-Decree #118 was signed (October 2005).
	(b) Procurement of aerial photographs and satellite images	The acquisition of aerial photography and the production of orthophoto maps were achieved through contracts with international companies (Blominfo of Denmark, and Finnmap of Finland, respectively). These maps provided the essential basis for the work to be done under sub-components 3(b), 3(c) and 5(c).
	(c) Preparation of land classification maps for Project provinces (showing boundaries	Some work was done with GTZ support in the Department of Land Use Planning in the General Department of Cadastre and Geography. However, no land classification maps

Component/Sub-component		Status
	of forests, protected areas, and land under private, public and concession use)	of Project provinces were ultimately prepared.
Revised sub-components	(a) State land mapping	The legal framework for land management was reviewed. Only a few State properties have been sporadically registered following ministerial requests.
	(b) Support to spatial planning	Partly implemented. Spatial Planning Policy under development.
	(c) Support to commune boundary demarcation	The development of “district strategic plans” was piloted in five districts before the introduction of LASSP. In early 2009, it was anticipated that Land Use Planning would continue after the adoption of the spatial planning policy and the legal framework.
	(d) Support to the National Spatial Data Infrastructure	The development of the multi-purpose cadastre is expected to support the National Spatial Data Infrastructure.

**ANNEX 3:
ENHANCED REVIEW REPORT**



Cambodia Land Management and Administration Project

Enhanced Review Report

July 13, 2009

This report presents the findings and recommendations of the Enhanced Review of the Land Management and Administration Project. The report was sent to the Royal Government of Cambodia on July 15, 2009.

Main Messages

(i) *The Land Management and Administration Project (LMAP) is a comprehensive land administration and management project including investments to develop land-related policy, legal and regulatory instruments, capacity building, land conflict resolution mechanisms and land titling and registration. LMAP activities are to be implemented in eleven “Project Provinces”¹. The Development Objective of the project is to assist the Royal Government of Cambodia to implement its Land Policy Program as spelled out in May 2001, and more specifically to improve land tenure security and promote the development of efficient land markets.*

(ii) *LMAP has delivered undisputed benefits, including the registering and titling of nearly one million parcels of land. Other successes include institutional strengthening, enhancing the land policy and legal framework, and strengthening cadastral commissions.*

(iii) *There is, however, a disconnect between institutional, legal and policy achievements and insecurity of land tenure for the poor, especially in urban areas, and for indigenous people. This disconnect can be attributed in part to the design of some of the project’s components, in part to the way the project was implemented, as well as delays or non implementation of some activities, and in part to rapid evolutions in the land market some of which are beyond the direct control of the Ministry of Land which is in charge of the implementation of the LMAP. As a result, LMAP’s noteworthy successes in land titling in rural areas have not been matched in urban areas of project provinces where land disputes are known to be more common.*

(iv) *During design, there was a decision in line with Cambodian Law that “the project will not title lands in areas where disputes are likely until agreements are reached on the status of the Land” Clarifying the status of the Land would have required the development and implementation of clear procedures for State land classification, which was planned under Component 5 but was only partially implemented resulting in the absence of official state mapping. As a result some land areas have been excluded from titling without clear criteria or explanation provided to the local communities². This creates a disconnect with LMAP’s objective of improving land security and should therefore be reviewed and corrected.*

(v) *Recent episodes of evictions highlight the need for the Government to accelerate the adoption of those elements of the land sector reform that protect the land rights of all land users, possessors and owners. Because of weaknesses highlighted above in both project’s design and implementation, as well as the non implementation of the anticipated informal settlements program to be implemented in parallel to LMAP, LMAP has not proved to be an effective instrument so far in helping the Government to deal with informal settlements. Given the objective of LMAP of improving land security it would be important that the Bank and the Government agree on ways to address this shortcoming going forward.*

¹ Three additional project provinces have been added under a CIDA Grant. The total number of provinces covered currently is fourteen.

² Because eviction occurred in disputed land areas which are excluded from the scope of the LMAP, the resettlement and safeguards policy framework has not been tested

(vi) *Going forward, the Bank will need to agree with Government and support their efforts to take remedial actions, in consultation with stakeholders, including affected peoples, in order to address deficiencies in LMAP design and implementation. In addition, the Bank and the other LMAP donors should engage the Government in a broader land sector policy dialogue to encourage them to apply the LMAP Environment and Social Guidelines to align the procedures used in LMAP financed activities with provincial/municipal land-related titling and registration activities.*

Report of the LMAP Enhanced Review Mission

I. Enhanced Review Mission Background

1. The ERM was comprised of Mohammed A. Bekhechi (Lead Counsel, World Bank) and Lars Lund (Social Safeguard Consultant). The ERM met with stakeholders³ and conducted their review between March 30 and April 12, 2009 with the following two objectives:

- i. To assess the extent to which the LMAP is being implemented in compliance with the project's Development Credit Agreement (DCA) and Cambodian Land Law; and
- ii. in connection to the recent eviction cases, to provide World Bank management with a thorough assessment of the situation on the ground, including the potential linkages between LMAP and the evictions.

2. More specifically, the ERM was asked to provide management with answers to the following questions:

- i. Is there any disconnect between the LMAP as designed and implemented particularly with regard to the delayed/non-implementation of any specific activities and/or components of the project?
- ii. Was the design decision to exclude areas of contested tenure appropriate in light of increasing land prices, a quickening pace of resettlement, and adoption of forced evictions by Government?
- iii. Are resettlements in communities associated with LMAP being handled in a manner consistent with the resettlement policy framework prepared for the project and the World Bank established safeguard policies as applicable to the project?
- iv. Has the World Bank failed to detect the alleged abuses in implementation of the land law, and raise them with the government?

3. The remainder of this report provides the ERM's response to those questions, along with recommendations to Bank management.

II. The Land Management and Administration Project

A. Background

³ These include: LMAP staff within the Ministry in charge of land; Cadastral Commission Staff in Phnom Penh; Municipality of Phnom Penh officials; Ministry of Finance staff involved in the management of resettlement; Civil Society's Organizations and community leaders including those threatened by imminent evictions, such as Group of 78; donors' representatives including ADB, GTZ, SIDA, CIDA, USAID, FINMAP; international NGOs and institutions represented in Cambodia and involved in human rights issues, and persons and groups evicted from their lands, notably from the Dey Krahorm and "resettled" outside Phnom Penh

4. The LMAP (Credit 3605 KH) was approved on March 27, 2002, with a closing date December 31, 2007. It was extended in December 2007 and a new closing date set for December 31, 2009. It was also suspended from June 2006 to February 2007 due to procurement issues which are not discussed in this report.

5. LMAP's objectives as defined in the Project Appraisal Document (PAD) and DCA are to assist the Royal Government of Cambodia to implement its "program of actions, objectives and policies designed to improve land tenure security and promote the development of efficient land markets"⁴ (Government's Program). This government program includes: (i) "the development of adequate national policies, a regulatory framework and institutions for land administration, (ii) the issuance and registration of titles in rural and urban areas in the Project Provinces, and (iii) the establishment of an efficient and transparent land administration system"⁵. LMAP was designed to be implemented in 11 "Project Provinces"⁶ defined in the DCA as "any province or municipality in the territory of the Borrower where the Project will be implemented"⁷.

6. To achieve these objectives, LMAP finances five inter-related components.

Component 1: Development of land policies and regulatory framework

Component 2: Institutional development,

Component 3: Land titling program and development and land registration system,

Component 4: Strengthening of mechanisms for dispute resolution, and

Component 5: Land management.

7. Environmental and Social Guidelines (ESG) were prepared for the project and adopted consistent with the Bank's OP 4.01 (Environmental Assessment), OD 4.30 (Involuntary Resettlement) and OD 4.20 (Indigenous Peoples). The ESG document states that:

- a. "Under the land management component [Component (5)], the Project will support the classification of land and the delimitation of boundaries of land of different classifications. As making these decisions will not be always smooth, it is expected that the process will involve full participation of all stakeholders, including relevant government agencies, central, provincial and local government bodies, and families settled in the area" Also the Project was designed to support the development of other policies, including [...], those supporting registering community and indigenous peoples' land rights, and allocating and developing land for the landless poor"⁸ [emphasis added]
- b. "While no eviction, involuntary resettlement or land acquisition is anticipated under the project, this [Resettlement Policy Framework (RPF)] has been designed to protect people who may be negatively impacted from three possible sources. These are: (i) eviction from

⁴ See DCA, Whereas Section (A)

⁵ Schedule 2 to the DCA

⁶ Schedule 6 to the DCA

⁷ It must be noted that three additional provinces were added to LMAP in 2007 under a CIDA financing. No amendment to the DCA was made to reflect the change.

⁸ While the LMAP did not anticipate to undertake individual titling in areas inhabited by indigenous peoples, an Indigenous Minority Policy Framework was prepared.

state land of individuals who occupied it prior to August 30, 2001....following titling of such land in the name of the state; (ii) eviction from state land titled in the name of the state of individuals who occupied it prior to August 30, 2001, because of the need to use such land for public works under the Project, and (iii) extension by the state of Right of Way (RoW) claims which adversely affects possession rights”.

B. LMAP Implementation and Achievements

8. Although land management and cadastral projects often show results only after long and sustained effort, LMAP has produced indisputable benefits in a short period. As of April 2009, LMAP has implemented many of its activities and achieved important objectives including:

- a. Institutional strengthening under its components (1) and (2), which has provided the Secretariat of the Council of Land Policy, the MLMUPC and its Project Unit, cadastral commissions at national and provincial levels, and the University of Agronomy with well-trained and competent staff, modern technology, equipment and office space;
- b. Enhancement and further development of the land policy and legal framework including policies and regulations (Sub-decrees and orders) covering a wide range of issues from the establishment of a land plan and land registry to sporadic land registration, social land concessions, economic land concessions to state land management and in May 2009 indigenous peoples’ land⁹;
- c. Strengthening the cadastral commissions in charge of resolving land disputes; and
- d. Land titling and registration, and establishment of a central database with a computerized land registration system. Titling and registration in undisputed rural areas, outside indigenous people’s lands, is a real success with nearly one million titles issued, which exceeds appraisal estimates.

9. These achievements were recognized and praised by all stakeholders during the ERM including government agencies, donors, civil society’s organizations (CSOs) and community leaders. These stakeholders have all expressed their willingness and wish to support follow up investments to continue the work done so far under LMAP. However, CSOs and community leaders expressed concerns about some disconnect between the institutional, legal and policy achievements of the LMAP and the continuous and growing insecurity of land tenure for the poor in urban areas, especially in Phnom Penh and in some rural areas where indigenous peoples’ are established and enjoy traditional land use rights. These are issues which LMAP has identified during its preparation and design phase but has yet to tackle effectively.

III. Conclusions of the Enhanced Review Mission

⁹ The Sub decree on Indigenous Peoples community’s Land tilting and registration was adopted by the Government, although the adopted version did not include all recommendations and feedbacks received from stakeholders during its preparation phase.

Question 1: Is there any disconnect between the LMAP as designed and implemented particularly with regard to the delayed/non-implementation of any specific activities and/or components of the project?

10. The PAD (Page 12) states that: “.....The proposed project takes a comprehensive approach in, supporting policy and regulatory reforms, consensus building and institutional development along with land titling. It carefully sequences activities so that systematic titling does not take place on lands with unclear status until after the status is agreed with all stakeholders and boundaries between private and state domains demarcated. “[...]” During the process of classifying land and demarcating boundaries, all stakeholders will participate in a process of public consultation to ensure general agreement with decisions. During systematic adjudication, NGOs with specialized training in participation will work closely with villagers, explaining the process, producing village land files, and ensuring that all members of the community who are eligible for a land title will benefit from the Project.” The PAD also mentions that “the project will also support the development of procedures and undertaking the preparation of land classification maps in project provinces which define the boundaries between various categories of land use, such as urban, agriculture forest, and protected areas. The preparation of these maps will be done through a participatory process among local government officials, NGOs, and various national government agencies to ensure proper protection of the environment and natural habitats.” [emphasis added]

11. These statements imply that the project components would be implemented in a coordinated manner. However, in practice, the components have been implemented each at their own pace. In particular the following activities have been delayed or have not been implemented¹⁰:

- a. Under Component (3), information and dissemination campaigns¹¹ through NGOs to assist communities and land rights holders to prepare for titling and registration of their rights was not implemented because of the reluctance of NGOs to be contracted by the Government and later procurement delays.
- b. Under Component (4), the systematic public information campaign at the local level on the Dispute Resolution Mechanisms (DRM) has not been yet contracted to a national NGO; similarly the specialized NGO expected to provide legal assistance to “disadvantaged individuals and communities involved in land disputes” has not been yet contracted¹².

¹⁰The various activities that follow in this list were initiated but not fully and effectively implemented, not implemented at all or not implemented and proposed to be dropped.

¹¹ The ERM has learned that dissemination activities, through Ministry of Land’s teams, have been implemented under the LMAP. However, these efforts were not meant and did not fulfill the same objectives as those originally envisioned to be implemented by NGOs. The reasons for lack of implementation of these activities were fully understood by the ERM, however, the link between this lack of implementation and the consequence on communities seeking land titling and security of tenure is noteworthy.

¹²It should be mentioned that as per the last supervision mission, more than 1976 land dispute cases remain to be resolved and unless land right claimants are duly informed and assisted by competent lawyers, they may not be in position to stand and defend adequately their cases before the Cadastral Commissions including the Mobile ones established to rush disputes resolution in “land conflict hotspots”.

- c. Beyond the preparation of the Prakas on Identification and Mapping of State Land and State Land Classification financed under component 5, almost all of the remaining activities under Component (5) were proposed to be cancelled and their budget reallocated, recognizing that “some state land identification, mapping and registration activities are being carried out through systematic and sporadic land registration processes (under component 3)...”¹³ It was also mentioned that the remaining activities of this component will be carried out after the Land Management Sub-Sector Policy is in place and a related program adopted.

12. Due to the non-implementation of the components and activities listed above, the project has somehow deviated from its initial design described in the PAD and DCA as a multi-pronged approach to address land issues comprehensively in Cambodia¹⁴. The ERM found that the well defined and intertwined components and activities of LMAP have been disconnected from each other, with implementation focusing on the most successful parts (training, works and titling and registering non disputed lands, as well as progress in enhancing and further developing the land policy and legal framework including policies and regulations) while not addressing the other activities that would have helped to fully achieve the LMAP development objective to improve land security. With the closing date looming, it is urgent to undertake as many activities as possible consistent with the project as originally designed. However, if the Bank is to continue to be engaged in the land sector in Cambodia beyond 2010, a thorough review is warranted to inform management on the overall land sector status and related policy dialogue with the RGC¹⁵.

Question 2: Was the design decision to exclude areas of contested tenure appropriate in light of increasing land prices, a quickening pace of resettlement, and adoption of forced evictions by Government?

13. The rationale for this decision to exclude disputed lands is articulated in the PAD: “classifying land and demarcating the boundaries between the public and private domains [....] will often be difficult and may increase disputes in the short-run”. This was recognized as a potential “Controversial Aspect” in the PAD (Page 24) which explicitly mentions that “the project will not title lands in areas where disputes are likely until agreements are reached on the status of the land. The project will support a systematic public consultation process to help build consensus for decisions and will ensure continuous discussions and consultations with NGOs and civil society. It is anticipated that some land now nominally under state control (about 80% of the total) will be released to the private domain. This will free government resources to better manage the lands that remain under its control.”

14. The municipal authorities’ actions targeting the land rights of the most valuable land, as evidenced by reports by news media and/or NGOS of land evictions and/or lack of implementing titling activities upon specific requests from communities are posing a challenge to LMAP approach to land titling, registration and management and are viewed by NGOs and community leaders as failure of the

¹³ Aide memoire (11th Supervision Mission, January 2009) Pages 11-12.

¹⁴ See Table in Annex 1

¹⁵ Probably such review could also help develop ToRs for a learning ICR

LMAP which was not able to address and tackle them effectively, while the Government is considering them as separate issues outside the scope of LMAP¹⁶.

15. The ERM has concluded that although it was a sound decision to exclude areas of contested tenure from the titling and registration process until a due process was implemented to classify and demarcate the various categories of land, the demarcation criteria and procedures, although defined under the Prakas on Identification and Mapping of State Land and State Land Classification supported by component 5, were not implemented resulting in the absence of an official mapping of state land. This is a real source of concern for those under threat of eviction because absent these maps, the relevant municipal authority can exclude from titling any portion of land surveyed and proposed for adjudication by the cadastre team and therefore titling it, implicitly, in the name of state. In fact, the absence of State land mapping is identified as important shortcoming that needs to be addressed for LMAP to succeed and help solve land conflicts and security of tenure¹⁷. Therefore it may have been a sound decision at the time of design to target undisputed and uncontested areas for systematic titling; this strategy should now be revisited and reviewed in light of LMAP development objective of improving land security¹⁸.

16. It should be noted that, the DCA does not refer to supporting land titling and registration operations in undisputed areas and/or uncontested areas. Instead, it refers to Project Provinces as the area for the implementation of the land titling and registration activities. For this reason, it is important that the Government commits to aligning land registration, titling, and adjudication policies and procedures between LMAP-financed activities and provincial/municipal activities in Project Provinces because the LMAP Project covers all lands in the Project Provinces as defined in the Development Credit Agreement.

Question 3: Are resettlements in communities associated with LMAP being handled in a manner consistent with the resettlement policy framework prepared for the project and the World Bank established safeguard policies as applicable to the project?

¹⁶ See footnote 17

¹⁷ The Constitution of 1993 stipulates that: "The right to confiscate properties from any person shall be exercised only in the public interest as provided for under the law and shall require fair and just compensation in advance" (Article 44). However, it is a fact that, reality on the ground poses two serious challenges to the implementation of the law and causes severe impacts to people involved. First, the majority of people have only possession rights to their land and the demarcation of the various categories of land is not done on the ground. Therefore people may be unaware of what kind of land they are occupying. Determining if they are in "legal possession" of the land for compensation purpose could be a major challenge. Secondly, the Right of Way is defined as state public land. Many people occupy the Right of Way in good faith and may never have been informed about their "illegal" status. The Land Law (Article 18), however, prohibits any "illegal" possession of land from being legalized. This may pose significant problems for people occupying the Right of Way if implemented according to the letter of the law.

¹⁸ Although the PAD does include some language about excluding from titling and registering "disputed lands", it does not provide criteria or definition of how to identify such lands in view of excluding them from the titling process (see Annex II). Both the PAD, in some critical sections (Annex on Project Detailed Description) and the DCA (Schedule 6) refer to implementing the Project, including the systematic land titling in the Project Provinces without any reference to excluding disputed lands.

17. The PAD explicitly states that: “Agreement has been reached with the Ministry (MLMUPC) regarding the approach to be used in the case of informal settlers including squatters. The Project: (a) will issue land titles where there is agreement by the government to provide the land to be registered to informal settlers, (b) will facilitate the provision of services and titling where the municipality is working with development groups to provide land to informal settlers through land sharing and/or relocation programs based on the UNCHS principles¹⁹, and (c) will not issue titles where there is no agreement to allocate the land to informal settlers or through land sharing and/or relocation programs. The Project has developed procedures for screening and consultation to ensure that the above conditions are agreed before provision of land registration and titling services.” [...]. The safeguard framework for the LMAP was developed accordingly.

18. The LMAP safeguard framework has not been tested because of the decision discussed above not to implement titling activities in “disputed areas” or for “disputed land”²⁰. The “procedures for screening and consultation” were never developed and the ERM learned that in cases where the relevant municipal authority decided to use the option not to title and register lands occupied by informal settlers, no safeguards were applied, including the UNCHS principles²¹.

19. The instruction for systematic land registration procedures developed under LMAP²² mention the obligation to undertake surveys, organize meetings with land occupiers, possessors or users, and allow them at the public display phase to file complaints and object to survey outcomes before the administrative commission established for the purpose of the registration issues a final report. The lack of implementation of component (3), “carrying out of information and dissemination campaigns through NGOs to assist communities and land rights holders to prepare for titling and registration of their rights” and Component (4) provision of legal assistance to disadvantaged individuals and communities involved in land disputes through specialized NGOs, has made the process less participatory and transparent for the most vulnerable communities seeking land titling in an area to be adjudicated in urban areas, notably in the Phnom Penh province.

20. The ERM visited the area which is located close to a wastewater canal and discussed with LMAP team and the municipality authorities the specific case of this area which was surveyed for the purpose of adjudication by the cadastre team. However, after the administrative commission has been established, only part of the area was adjudicated and no explanation or reasons were provided to land possessors for the excision of their plots. The ERM has not obtained other information about the excision. The ERM also discussed with the representatives of the Municipality whether a resettlement

¹⁹The UNCHS program is based on international principles for shelter--i.e., (a) Provide security of tenure; (b) Promote the right to adequate housing; (c) Provide equal access to land; (d) Promote equal access to credit; and (e) Promote access to basic services and guidelines. This description of the UNCHS program was made public by the Bank in the LMAP-related PID.

²⁰It would be helpful to undertake a full due diligence on the cases submitted to the Cadastral Commissions under the Dispute Resolution Mechanisms to assess cases where land claimant have been denied their request for titling and what were the consequences in terms of applying safeguard. Although statistics about land dispute cases have been mentioned, there is no easily accessible documentation on the substance of such disputes, or on enforcement of the related Cadastral Commissions’ decisions.

²¹ See footnote 17

²²Instruction of the MLMUPC, dated December 20, 2006

action plan will be implemented for those land possessors who were not found eligible for titling. No answer was provided beside that the case was handled outside the purview of LMAP and defined as related to disputed lands (i.e., State Land). It is the ERM's view that this is clearly an example where, implementation of the dissemination and legal assistance activities could have helped affected persons to claim their rights, dispute the outcome of the titling and registration process and benefit from the ESG as appropriate.

Question 4: Has the World Bank failed to detect the alleged abuses in implementation of the land law, and raise them with the government?

21. The ERM has learned that the Cadastral Administration, through LMAP, undertakes a basic survey and recommends to the relevant municipality or district to implement a systematic titling process. Because of the assumption that parcels of lands under dispute will not be surveyed and titled, the relevant municipal authority has granted itself the unilateral right to excise portions of lands surveyed by the Cadastral Administration. In doing so, it has decided not to apply the systematic titling to those excised areas. In addition, for those people affected by the decision to excise land, on which they were established, from the area to be adjudicated, there were no social safeguard that were triggered. Affected persons interviewed by the ERM mentioned that no consultation was conducted, or information provided to them, prior to the decision to excise an area from systematic titling and no legal assistance provided to them to file claims on the basis of their possession rights and their rights to any potential compensation or resettlement assistance.

22. The overall design of the titling process, consistent with the 2001 Land law assumes that the initial geographical area to be adjudicated and subject to systematic titling, should be mapped in its entirety, indicating all existing plots and their current use in a participatory manner. This would give a documentation of existing land use at the surveying date. Users-possessors-renters rights must be assessed and documented properly. If done accordingly, no de facto state land identification would be done by excising areas from any adjudication area whether directed by the province/municipality or otherwise determined. Ensuring that any process undertaken by any authority to excise or exclude a portion of land from the systematic titling area is transparent, public, and widely disseminated is an important assumption strongly grounded in the applicable law supported by the LMAP²³. The state land identification (public and private) should be determined before or rather simultaneously to the individually plot titling. This has not happened to date in urban areas, which is why provincial/municipal authorities are trying to determine what would be state land, and asking it to be excised from the systematic titling process. State land (public and private) identification and mapping, must not be done

²³ It is the ERM understanding that any occupation or possession of land which commenced after the enactment of the Land Law (August 30, 2001) is illegal and can provide ground for the competent authority to issue an eviction order to the occupier or possessor to vacate the land. However, the situation is different for those occupiers or possessors claiming possession and use commencing before August 30, 2001 who can apply for either systematic or sporadic land titling.

through unilateral excision, it must be done in a separate, transparent and participatory process as mandated by relevant legal and regulatory provisions²⁴.

IV. Recommendations

23. In the view of the ERM, World Bank further involvement in land management and administration beyond 2009 would require that LMAP take both remedial and forward-looking actions to implement essential components of the project and to engage with all stakeholders involved or impacted by the current land administration and management practices in Cambodia²⁵. For that to be corrected, the ERM considers the following remedial actions necessary:

- a. Ensure that interim measures are put in place to protect Indigenous Peoples lands until the sub-decree, adopted in May 2009, is implemented.
- b. Assist in facilitating access to sporadic titling, including prior information campaign and provision of legal assistance, for citizens and communities, especially those excluded from the systematic titling process in urban areas
- c. Implement the needed land management-related investments including mapping of state land in urban areas where evictions are occurring under the assumption that evicted peoples were using state public land. If as mentioned to the ERM this is to be part of a follow up/separate project, it should be clarified officially to the Bank and principles agreed upon pending such clarification.
- d. Review the Technical Manual for land titling to include environmental and social safeguard provisions consistent with the ESG and provide appropriate implementation guidance to

²⁴ A Safeguard Review (non dated) of the Bank portfolio in Cambodia has provided what could provide an explanation to the Phnom Penh Municipality actions to excise parcels of lands from areas retained for adjudication. That report mentions that: "number of Articles in the Land Law deal with the issue of illegal occupation of land. Although Article 38 describes circumstances in which occupation of land for over five years can give rise to ownership, Articles 29 and 34 makes it clear that no occupation starting after the date of the Land Law (August 2001) can give rise to ownership. Article 18 of the Land Law further defines illegal occupations of state land and nullifies any attempt to legalize or regularize illegal occupation. However, In Cambodia, it is very common for people to live on and doing business within the right of way (ROW). The government has never announced that the Right Of Way (ROW) land is government land and often Cambodians, unaware of this, move into the ROW zone for cultivation, business or even to build their houses. The government does not challenge their use of the ROW until they need it for road improvements, borrow pits etc. The Land Law prohibits compensation payment to be made to persons "entering into possession of public properties of the State" or "entering into possession of private properties of the State after August 2001 (date of the Land Law)." This policy, coupled with the policy provision of recognizing only right of ownership for land compensation, is exposing a large number of people using the ROW, particularly rural households, to the risk of deprivation and impoverishment, if and when the land is recovered for road works. They could be rendered homeless and without apparent means for production and survival. While recognizing the need to establish a ROW, the ERM also believes that the affected people within the ROW need to be assisted in the restoration of their livelihoods even if they do not have ownership and legal right to the land. The current government policies and practice would need to improve to achieve this purpose.

²⁵ MAP must not shielded itself from the area that it was designed to influence (land administration and management practices in Project Provinces/municipality) in order to achieve its overall objective to secure land rights including for those disadvantaged and poor communities in urban areas and indigenous peoples.

- LMAP staff on the ESG. This is a critical action to ensure that the ESG will be used as per their terms.
- e. Complete the recruitment of CSOs/NGOs in public awareness and community participation activities including in the initial survey of land area to be adjudicated. Further systematic land titling should be scaled down until this has been done.
 - f. Recruit a specialized CBOs/NGO to provide legal assistance to land users, tenants, possessors and assist them with analysis and investigation into the legal ground for any ownership/tenure claims according to the land law of 2001, and and/or grievance process before the Cadastral Commissions and courts in cases where eviction is deemed necessary in the name of public interest. Until such legal assistance is in place and working effectively, the Bank must advise the Government to suspend any further eviction.
24. In addition the Bank, in coordination with all LMAP donors, may want to engage the Government in a broad policy dialogue to prepare for a next phase of assistance to the land sector. The Government will be advised to:
- a. Follow the LMAP ESG to mitigate and address any negative impact on persons and communities for any titling process to be undertaken in Project Provinces, including the new provinces added to LMAP and which are financed through a CIDA Grant. The ESG should be applied throughout the mapping, determination by province/municipality of excising areas, and eligibility criteria for assistance in titling. The ESG must be applied in the process of defining the boundaries of the adjudication area in consultation with all stakeholders including affected persons and communities. This is important in the absence of a national resettlement/compensation policy and legal framework. In doing so, the Government will also fulfill the recommendation not to engage the LMAP in *de facto* state land identification by excising areas not to be titled, whether this is directed by the province/municipality or otherwise determined. In agreeing to do so, the Government will align land registration, titling, and adjudication policies and procedures, between LMAP-financed activities and provincial/municipal activities.
 - b. Implement, with donors assistance and with affected persons and communities' participation, on an urgent basis a social assessment of resettlement sites in and around Phnom Penh, where residents from inner city sites have been relocated after they have been evicted within the LMAP implementation period. In addition, plans should be prepared for these sites to meet international standards in resettlement. One of the objectives of such assistance will be to title and register lands in these resettlement areas in order to secure the rights of resettled persons and communities and to provide for sound environmental management of resettlement sites.
 - c. Beyond the LMAP, the RGC, the World Bank, other donors and stakeholders would be well advised to discuss potential assistance to the Government in finalizing the national resettlement policy and sub-decree prepared with ADB's assistance, which were reviewed

by the ERM and found in broad compliance with good international practices including UNHCS standards and World Bank policy on involuntary resettlement.

- d. Beyond the current LMAP cycle, the ERM has learned that the Municipality of Phnom Penh is preparing a land use plan and a housing policy. The Municipality will be well advised to use this opportunity to further secure land rights for all communities, including those established in urban areas, and include them in a process which titles lands plots that are not located in clearly and transparently defined and delimited state public land. Under such a clear and transparent approach, those who will not be eligible to receive title will be resettled in compliance with the resettlement policy and sub-decree mentioned above, or the LMAP agreed ESG if such sub-decree and policy are not yet effective.
- e. The World Bank must assist the Government and the Municipality of Phnom Penh in learning from experiences of other countries which demonstrated how securing land rights and upgrading slums and shanty towns can be used as effective tools to fight poverty and enhance urban development processes and outcomes while improving the overall urban environment.

Annex 1

Status of LMAP Implementation, as of April 2009

	Component	Progress	Still outstanding/issues
1	Part A: Development of Land Policy and Regulatory Framework	1. Strengthen capacity of the secretariat of Land Policy Council.	1. Adoption of IP policy and Sub-Decree on registration of IP communal lands (done in May 2009) 2. Implementation of interim measures to protect IP lands. 3. Clear definitions on roles and responsibilities of various RGC agencies are yet to be defined.
2	Part B: Institutional Development	1. Built up capacity to do titling in 'undisputed' areas, especially in rural settings. 2. Land Administration courses taught in University	
3	Part C: Land titling Program and Development of Land Registration System	1. 34 Land Registration Teams (LRT), each with 26 members, established and trained. 2. More than a million titles issued, mostly in rural areas. 3. Progress on data management and retrieval regarding titles issued.	1. No involvement of NGO/CSOs in information dissemination and community participation (often referred to as Public Awareness and Community Participation – PACT) in systematic titling. 2. Unclear reasons for excising areas from systematic titling, thus excluding some people from titling. 3. No sporadic titling is done under the project. 4. The strategic design choice ²⁶ of only titling undisputed land, and leaving the rest untitled, should be reconsidered.
4	Part D: Strengthening Mechanisms' for Dispute Resolution	1. Support to CC system.	1. No specialized legal NGO/CBOs have been engaged to provide assistance to disadvantaged communities involved in land disputes. 2. The system of Cadastral Commissions may be in jeopardy with the creation of National Authority on Land Disputes, and division of responsibility is unclear.
5	Part E: Land Management		Not implemented beside minor activities.

²⁶ That is, not very clearly expressed in the PAD and not at all reflected in the DCA. See Annex II below.

Annex II
Excerpts from the PAD and Other LMAP Documents
on the Issue of Titling or not Disputed Lands

PID (Page 12)

Safeguard Section: Resettlement:

“Agreement has been reached with MLMUPC regarding the approaches to be used in the case of informal settlers including squatters. The project:

- (a) will issue titles where there is agreement by the government to provide the land to be registered to informal settlers,
- (b) will facilitate the provision of services and titling where the municipality is working with United Nations Center for Human Settlements (UNCHS) and its partners to provide land to informal settlers through land sharing and/or relocation programs, and
- (c) will not issue titles where there is no agreement to allocate the land to informal settlers or through municipality/UNCHS land sharing and/or relocation programs.

The UNCHS program is based on international principles for shelter--i.e.,

- (a) Provide security of tenure;
- (b) Promote the right to adequate housing;
- (c) Provide equal access to land;
- (d) Promote equal access to credit; and
- (e) Promote access to basic services and guidelines.

The project will develop procedures for screening and consultation to ensure that the above conditions are agreed before provision of land registration and titling services. As the project will finance a construction of a new office building for the Ministry and the rehabilitation/new construction of provincial and district land offices, it was agreed with the government that these offices will be built on vacant”

PAD (Page 12)

3.” The proposed project takes a comprehensive approach in, supporting policy and regulatory reforms, consensus building and institutional development along with land titling. It carefully sequences activities so that systematic titling does not take place on lands with unclear status until after the status is agreed with all stakeholders and boundaries between private and state domains demarcated.”

...” During the process of classifying land and demarcating boundaries, all stakeholders will participate in a process of public consultation to ensure general agreement with decisions. During systematic adjudication, NGOs with specialized training in participation will work closely with villagers, explaining the process, producing village land files, and ensuring that all members of the community who are eligible for a land title will benefit from the Project.”

PAD (Page 18)

5.1....” The project will also support the development of procedures and undertaking the preparation of land classification maps in **project provinces** which define the boundaries between various categories of land use, such as urban, agriculture forest, and protected areas. The preparation of these maps will be done through a participatory process among local government officials, NGOs, and various national government agencies to ensure proper protection of the environment and natural habitats.”

PAD (Page 19)

6.1. **“Measures to help the disadvantaged:** During project implementation local NGOs will be contracted to facilitate community participation during systematic adjudication. They will be responsible for field work prior to the commencement of systematic adjudication. Their scope of work will include the following tasks: information dissemination, targeting women for education campaign on land laws and titling procedures, conducting village baseline profiles, entering field data into the registration database, analyzing registration records, producing consolidated village land files, explaining the benefits of and procedures for registering subsequent transfers and provide support for local land use planning and evaluation and monitoring. The project will provide the contracted NGOs with orientation and training, including on gender-specific methods and tools for participation”

PAD (Page 20)

6.1. **“Informal Settlers.** Agreement has been reached with the Ministry (MLMUPC) regarding the approach to be used in the case of informal settlers including squatters. The Project:

(a) **will issue land titles** where there is agreement by the government to provide the land to be registered to informal settlers,

(b) will facilitate the provision of services and titling where the municipality is working with development groups to provide land to informal settlers through land sharing and/or relocation programs based on the UNCHS principles, and

(c) **will not issue titles** where there is no agreement to allocate the land to informal settlers or through land sharing and/or relocation programs. **The Project has developed procedures for screening and consultation to ensure that the above conditions are agreed before provision of land registration and titling services.**”

PAD (Page 24)

3. **Possible Controversial Aspects:** “Classifying land and demarcating the boundaries between the public and private domains, and, for land in the public domain, tracts under the control of various government entities will often be difficult and may increase disputes in the short-run. **The project will not title lands in areas where disputes are likely until agreements are reached on the status of the land. The project will support a systematic public consultation process to help build consensus for decisions and will ensure continuous discussions and consultations with NGOs and civil society. It is anticipated that some land now nominally under state control (about 80% of the total) will be released to the private domain. This will free government resources to better manage the lands that remain under its control.**”

Project Description

Project Component 3 - Land **Titling Program and Development of Land Registration Systems**
(US\$ 20.40 million)

“The component will support the issuance of first time land titles and the establishment of land registration system to register land transactions, and will include: (a) information dissemination and community organization; (b) systematic land titling program; (c) sporadic land titling program; and (d) development of an efficient, transparent and effective land registration system.

A. **Information Dissemination and Community Participation:**

This sub-component will support information dissemination through mass media (television, radio and newspapers) and posters about systematic, sporadic land titling program, and land transaction registration. The information dissemination also includes support information dissemination to villagers undergoing systematic adjudication. Prior to the commencement of the land titling activities in the village, the project will organize an information campaign, through focus groups discussions and workshops to explain the project objectives, rationale and benefits, and also explain the forms, the procedures and legal rights to each household. The information campaign will commence about one month before the surveying and adjudication starts.

The project will hire and train local NGOs in the project provinces to undertake the village level information dissemination and community organization campaign including training and participation of mass organizations such as farmers associations. **This sub-component will also include support for the collection of village land profiles to define village boundaries, describe land distribution, land market activity and identify any pre-existing land disputes.** This information will be used in the planning of the titling program and later for monitoring the socioeconomic impacts of the project. A standard form for gathering the data will be developed during the pre-implementation period. These data will be inputted in a computerized database for easy reference and use.

B. **Systematic Land Titling Program:**

This sub-component will support the current initiatives of the MLMUPC in land titling (first-time land title registration) with further development and acceleration of the ongoing two pilot projects financed by the Finnish and German governments. **The land titling program will cover ten provinces and Phnom Penh municipality** (Attachment 11) **and will cover both urban and rural areas.**

The sub-component will include the following activities: [.....] “ Training in support of accelerated land titling” (i); (ii) **for systematic adjudication teams in systematic**

registration processes, land law, participation facilitation and dispute mediation; and (iii) training of provincial and district staff in legal, technical, and management subjects. [.....]

C. **Sporadic Land Titling Program:**

The sub-component will support the issuance of titles (first-time issuance and registration of land titles) on demand in the project provinces. This support will include

- (i) review of the current procedures for issuance of land titles and provide modification if necessary,
- (ii) preparation of sporadic adjudication manual,
- (iii) training for staff of provincial and district land offices in the new procedures, and
- (iv) [.....]

ANNEX 4: DETAILED TIMELINE ON THE BKL EVICTIONS AND THE BANK'S RESPONSE

Following the receipt of letters from NGOs highlighting the eviction issue, Management pursued a series of actions to deal with these issues, including:

- Meeting with representatives of the communities and NGOs to hear concerns;
- Making the decision to undertake an Enhanced Review Mission (ERM) of LMAP;
- Carrying out an active dialogue with the authorities in which the issues were raised and solutions were offered (e.g., help Government finalize its policy and legal framework for resettlement; provide support to upgrade resettlement sites);
- Calling on the authorities—in meetings, letters and through a joint donor statement—to put a moratorium on evictions.

A timeline of these actions—many of which were repeated numerous times—is shown below.

Date	Event/Action
May 2006	Public notice of adjudication zone for systematic land titling under LMAP
May 2006-January 2007	LMAP LRTs carry out survey and adjudication in Sras Chok commune. BKL residents request that their individual land claims be recognized
January 4 – February 2, 2007	The public display of the adjudication records showed only village boundaries (with owner listed as “unknown”)
February 6, 2007	BKL Lease agreement signed between MPP and the private developer
April – May 2008	Communities reassured by authorities that there would be no resettlement
June 6, 2008	Supervision mission visit to BKL area (Sras Chok commune). During this brief visit the PMO informs donors that BKL is State Public Land and therefore residents are ineligible for titles
July 2008	Letter from Phnom Penh Department of Land Management to MPP describing the boundaries of the “development area”
August 2008	MPP conveys plans for resettlement to communities. Residents of the “development area” pressured to resettle. Most tenure-insecure households living in stilt houses on the lake begin to move away
August 2008	Commencement of lake filling and site development by private developer
August 2008	Re-classification of land to “State Private”
November 2008	WB learns that NGO is preparing a report on LMAP
November 10, 2008	WB task team contacts NGO
November 20, 2008	WB task team meets with NGOs
January 12, 2009	BABSEA requests information on adjudication status of Boeung Kak area of Phnom Penh (BKL and Sras Chok are not mentioned)
January 20, 2009	Task team facilitates meeting of NGOs with TWG-Land and LMAP Project Director; NGOs give a Powerpoint presentation
January 24, 2009	Eviction of Dey Krahorm community
February 18, 2009	Country Director (CD) receives letter from BABSEA
February 23, 2009	Task Team shares BABSEA letter with PMO and LMAP Development Partners
February 20-26, 2009	Bank Management meetings to review issues
March 2-3, 2009	Discussions with co-financiers (Germany, Canada, Finland)
March 4, 2009	CD travels to Phnom Penh to meet with NGO and Dey Krahorm representatives in the Bank's Office to hear their concerns
March 4, 2009	Letter from Community Legal Education Center (CLEC) to CD regarding Group 78 eviction
Shortly thereafter	Decision to undertake an ERM of LMAP
March 11, 2009	Letter from Country Manager (CM) to Senior Minister of Land (Sr. ML) regarding

	11 th Multi-Donor Supervision Mission and actions to fulfill covenants, including two complaints raising concerns about evictions
March 24, 2009	Letter from CM to Sr. ML to announce LMAP ERM
April 1-10, 2009	LMAP ERM is in Cambodia
April 8 or 9, 2009	CD and RVP meet Secretary General, MEF at ASEAN Finance Ministers Summit and advise him that Bank is undertaking a careful review of the application of safeguards to the land disputes/evictions
April 9, 2009	Letter from BABSEA addressed to "the Board of the World Bank Group" attaching a confidential draft report with list of questions, including reference to potential Inspection Panel request. BABSEA Director subsequently clarified that report had not been sent to the Board, Government or other Development Partners but would be shared only after receiving response from Management. Actual distribution took place in October 2009
April 10, 2009	SD and CM meet with Sr. ML and raise concerns about the evictions during a broad discussion on land issues
April 20, 2009	Notification from MPP to all residents living on Sour Srun Company's land (Group 78) and public road
April 27, 2009	Letter from CD to BABSEA, CLEC, JRSC responding to their letter of April 9, 2009
April 30, 2009	In meeting with DPM, CM: (i) provides briefing on the preliminary findings of the ERM; (ii) raises concerns about evictions and pending evictions of Group 78 residents; (iii) requests assistance in arranging meetings with MPP Authorities and the Senior Minister of Land; and (iv) suggests a temporary moratorium on evictions
April 30, 2009	CD writes to DPM to follow up on CM's meeting of the previous day and again expresses same concerns; suggests a temporary moratorium until a policy and legal framework for resettlement is in place
May 3, 2009	CD and RVP meet with Secretary of State, MEF and Deputy Secretary General, MEF at ADB Annual Meetings in Bali. RVP expresses concerns about LMAP implementation; Secretary of State (who was briefed ahead of time by CM) indicates that he is aware of the issues, but that he has been advised that the evictions were outside the scope of LMAP. Bank team indicates that there were ongoing discussions/investigations about the nature of the linkages with LMAP; agrees to discuss the issues further with the authorities
May 5, 2009	CM meets with the Deputy Governor of Phnom Penh to (i) raise concerns on the evictions and possible links to LMAP; and (ii) ask for a moratorium on evictions
May 6, 2009	CM meets with Sr. ML to: (i) raise concerns on evictions and possible links to LMAP; and (ii) ask for a moratorium on evictions; Sr. ML insists that there is absolutely no link between any evictions and LMAP
May 18, 2009	CD in Phnom Penh; meets with DPM and again raises same concerns
May 27, 2009	CD and CM meet with Sr. ML to share: (i) preliminary findings from ERM; and (ii) concerns about the evictions and possible links to LMAP, as well as to stress the need: (i) to adhere to safeguards guidelines; and (ii) for a moratorium on evictions. Again, Sr. ML insists that there is no link between any evictions and LMAP
June 4, 2009	CD and CM meet with land NGOs and the Bank Information Center in Bangkok. Update provided on situation of evictees from Dey Krahorm and possible Group 78 eviction
June 12, 2009	Task team facilitates meeting between NGOs and TWG-L
July 8, 2009	CD letter to DPM following up letter of April 30
July 15, 2009	Bank shares the ERM Report with authorities through letter from CD to Sr. ML
July 16, 2009	The Bank issues a joint statement with other Development Partners calling for a halt to evictions of Cambodia's urban poor
July 17, 2009	CD meets with Sr. ML to discuss ERM report and concerns about the handling of land disputes in Phnom Penh

July 17, 2009	Eviction of Group78 community
July 22, 2009	CD letter to Sr. ML following up on meeting of July 17; raises concerns about the BKL residents and proposes a supervision mission for LMAP with expertise on resettlement issues
July 22, 2009	64 Cambodian and International NGOs endorse July 16 Development Partners joint statement
July 30, 2009	CD second letter to authorities proposing an Environmental and Social Safeguards Review Mission in early August to: (i) review implementation of safeguards in relation to land allocation and land titling activities in BKL area; (ii) assess environment impacts of lake filling and related dredging; and (iii) assess social impacts of filling of the lake and dredging on adjacent communities
July 30, 2009	Letter from CM to Phnom Penh Governor twice requesting meetings for the Safeguards Review Mission
July 31, 2009	Letter from Acting CM to Secretary of State at Council of Ministers to request a meeting with Safeguards Review Mission
August 3-5, 2009	Safeguards Review Mission in Cambodia
August 4, 2009	Second letter from CM to Phnom Penh Governor requesting meetings for Safeguards Review Mission
August 5, 2009	Letter from Task Team Leader to LMAP Project Director requesting information for Safeguards Review Mission and reminding of obligations under the DCA
August 5, 2009	Meeting with community representatives and NGOs at NGO Forum
August 10, 2009	First formal eviction notices in BKL.
August 13, 2009	Letter from CM to Phnom Penh Governor requesting meeting to discuss issues related to BKL area
August 14, 2009	Letter from Cambodian Housing Rights Task Force to CD and Task Team Leader regarding the ESG and the RPF
August 17, 2009	Letter from CD to Sr. ML to: (i) raise concerns about the evictions and the link between BKL and LMAP; and (ii) remind of obligations under the DCA
August 21, 2009	Letter from Acting CM to Phnom Penh Governor requesting meeting to discuss issues related to BKK Lake area
August 21, 2009	Meeting with community representatives and NGOs at WB Phnom Penh office
August 27-28, 2009	Visit of RVP to Cambodia. Meets with 3 DPMs, PM's Adviser, Sr. ML, Minister of Commerce, NGOs and Development Partners. PM cancels meeting with RVP. All discussions focus on LMAP, including the need for: (i) a moratorium on evictions; and (ii) a resettlement policy. Offers to support the authorities to: (i) put into place a legal and policy framework; and (ii) help upgrade resettlement sites. RVP proposes a joint suspension of the Project while work is ongoing to improve resettlement policy and regulatory framework
September 4, 2009	Council of Ministers decides to cancel remaining LMAP Credit. DPM informs CM of Government's decision to cancel LMAP with immediate effect; indicated that formal letter is forthcoming
September 6, 2009	Bank issues public statement and posts ERM report on the web
September 7, 2009	Bank receives letter (DPM, MEF to RVP) requesting cancellation of undisbursed balance of LMAP Credit
September 18, 2009	Bank response (RVP to DPM, MEF) to cancellation letter in which Management reminds the Government of their ongoing obligations under the Project
September 24, 2009	Letter from CD to DPM, MEF regarding cancellation of undisbursed amount
September 28, 2009	Release of NGO report <i>Untitled: Tenure Insecurity and Inequality in the Cambodian Land Sector</i> , by BABSEA, COHRE, and JRSC
October 1, 2009	COHRE press release (http://www.cohre.org/inspectionpanel/)
October 8, 2009	Letter from CD to DPM, MEF regarding processes for closing the LMAP Credit and Designated Account
October 9, 2009	Letter from CD to DPM, MEF regarding cancellation of CIDA TF053043
October 9, 2009	Letters from CD to DPs (CIDA, German Embassy and Embassy of Finland) regarding cancellation of LMAP undisbursed balances

**ANNEX 5:
DONOR STATEMENT AND NGO RESPONSE**

Public Statement:

DEVELOPMENT PARTNERS CALL FOR HALT TO EVICTIONS OF CAMBODIA'S URBAN POOR

July 16, 2009--- Development Partners are calling upon the Royal Government of Cambodia to stop forced evictions from disputed areas in Phnom Penh and elsewhere in the country until a fair and transparent mechanism for resolving land disputes is put in place and a comprehensive resettlement policy is developed.

Development Partners recognize that land issues are an ongoing challenge to development in Cambodia and urge the Government to adopt fair and transparent systems for land titling, including in urban areas, which recognize and protect the equal rights of all citizens. Development Partners stand ready to support the establishment of national policy guidelines which would ensure that evictions and resettlement follow due legal process and provide just compensation to affected individuals.

The World Bank and a number of Development Partners have been working closely with the Government on securing land titling in Cambodia. The Government is commended for issuing more than one million land titles because this offers the opportunity for improved growth and poverty reduction.

However, in an environment of escalating urban land values in Cambodia and speculative land buying and selling, urban dwellers are under threat of being moved to make way for high value property development. This has become a major problem in Phnom Penh and other fast growing cities in Cambodia – creating uncertainty for, and putting at risk the livelihoods of, thousands of poor people living in disputed urban areas. This is a result of policies and practices that do not reflect good international practice in dispute resolution and resettlement and do not make effective use of the procedures and institutions allowed for in Cambodian law.

International experience has established that secure land tenure is vital in ensuring economic growth and reducing poverty and that fair, well-implemented resettlement processes are key to an effective land tenure and titling system and protecting the rights of all people.

Development Partners reaffirm their commitment to work with the Government to help address land issues in a just and equitable manner and to ensure that the rights of poor people are promoted and protected.

signed by:

Embassy of Australia
Embassy of Bulgaria
Embassy of Denmark / Danida
Embassy of Germany
Embassy of the United Kingdom
Embassy of the United States of America
Swedish International Development Agency (Sida)
Asian Development Bank
Delegation of the European Commission
United Nations
World Bank

contact: Saroeun Bou, World Bank +855 23 21 7301 Email: sbou@worldbank.org

Statement from Non Government Organizations (NGOs)

We are 64 non-government organizations working for the development of Cambodia. We have seen the 16 July statement entitled “DEVELOPMENT PARTNERS CALL FOR HALT TO EVICTIONS OF CAMBODIA’S URBAN POOR”, issued by development partners of the Cambodian Government (Embassy of Australia, Embassy of Bulgaria, Embassy of Germany, Embassy of the United Kingdom, Embassy of the United States of America, Embassy of Denmark / Danida, Swedish International Development Agency (Sida), Asian Development Bank, Delegation of the European Commission, United Nations, World Bank).

We are appreciating to see that the development partners have supported a concern that non government organizations have been raising for many years. We express our support for the statement. We too are concerned about forced evictions throughout rural and urban Cambodia. We will continue to cooperate with the Cambodian Government to help address land issues in a just and equitable manner and to ensure that the rights of poor people are promoted and protected.

For further Information:

Mr. Sok Sam Oeun, Chairman of CHRAC/Executive Director of CDP
Tel: 012 901199

Mr. Thun Saray, President of ADHOC
Tel: 016 880509

Mr. Chhith Sam Ath, Director, NGO Forum on Cambodia
Tel: 012 928585.

Mr. Lun Borithy, Executive Director of CCC
Te: 012 802 384

Mr. Dr. Sin Somuny, Executive Director of Medicam
Tel: 012 573062

Mr. Sia Phearum, Housing Rights Task Force secretariat
Tel: 012 852 325

Cambodian NGOs	
1	ADHOC
2	BABSEA
3	Building Community Voice
4	Cambodia HIV/Aids Education and Care
5	CARDH
6	CCC
7	CCPCR
8	CDK
9	CDP
10	CHHRA
11	CHRAC
12	CIDC
13	CKIMHRDA
14	CLEC
15	CMDP
16	Cooperation Committee Cambodia
17	CWCC

18	DPA
19	ESO
20	GAD/C
21	GENEROUS
22	HROTP
23	HRTF
24	ICSO
25	IDA
26	KID
27	KIND
28	KKKHRO
29	KKKHTDA
30	KYA
31	LAC
32	LICADHO
33	MEDiCAM
34	Mlup Baitong
35	NGO Forum on Cambodia
36	PADEK
37	PDP-Center
38	PJJ
39	RAHDO
40	SADA
41	Star Kampuchea
42	UPWD
43	Vigilance
44	YBDP
International NGOs	
1	ACR Caritas Australia
2	AFSC
3	CARE International
5	Caritas Cambodia
4	CRWRC
6	DCA/CA
7	Diakonia Cambodia
8	Flora and Fauna International
9	GRET
10	Health Unlimited
11	ICCO
12	Intervida Cambodia
13	LWF
14	Maryknoll Cambodia
15	NPA
16	NTFP-EP
17	Oxfam GB (O America, O Aust, OHK, OGB, O NOVIB)
18	Union Aid Abroad – APHEDA
19	Veterans International
20	World Vision
64	TOTAL

ANNEX 6: SUPERVISION HISTORY AND COSTS

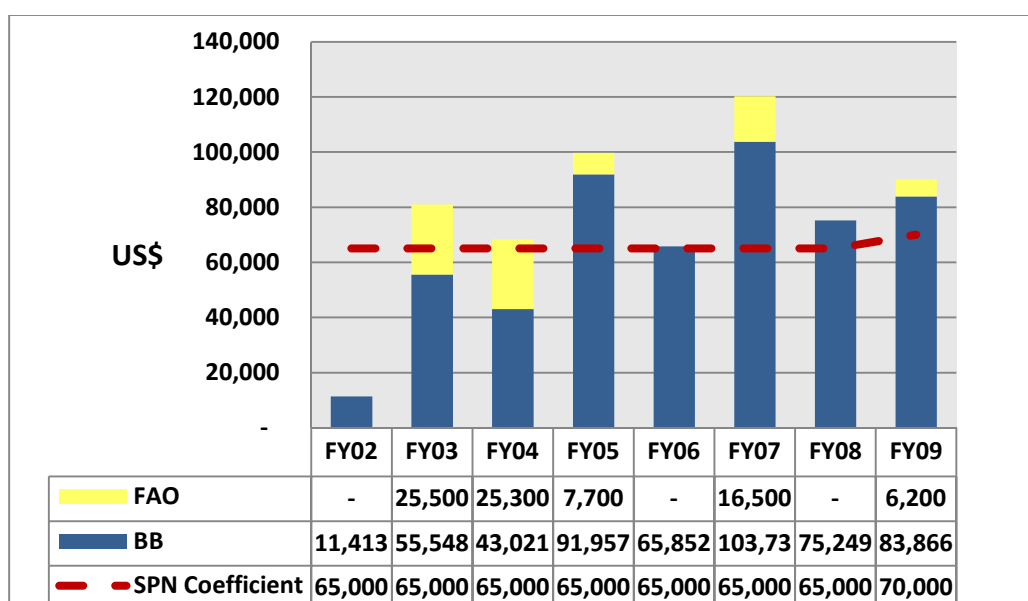
SPN Mission & Key Milestones	PSR/ISR [Sequence and Archived Date]	Mission Participants
	February 26, 2002	Board Approval
	#1 March 3, 2002	Initial PSR
May 13-17, 2002 1 st supervision mission Project Launch Workshop on May 15th, 2002	#2 May 31, 2002	<ul style="list-style-type: none"> • Task Team Leader #1 • Senior Anthropologist • Senior Financial Management Specialist • Procurement Officer • Land Administration Consultant • Representative of the Government of Finland attended the wrap-up meeting • Representative of the Government of Germany
June 19, 2002		Project effectiveness
October 9-11, 2002, 2 nd supervision mission	#3 November 21, 2002	<ul style="list-style-type: none"> • Task Team Leader #1 • Agricultural Economist • Land Administration Consultant • Senior Financial Management Specialist undertook a financial management review before the arrival of the mission • Representative of the Government of Finland • Representative of GTZ
May 5-12, 2003 3 rd supervision mission	#4 June 19, 2003	<ul style="list-style-type: none"> • Task Team Leader #1 • Legal Counsel • Social Development and Participation Officer • Social Development Consultant • Land Administration Consultant • Procurement Officer • Financial Management Specialist • 2 Representatives of the Government of Finland • Representative of the Government of Germany • Representatives of ADB participated in key meetings
-	#5 December 18, 2003	No mission: PSR prepared by Task Team Leader #1
January 5–12, 2004 4 th supervision mission	#6 February 19, 2004	<ul style="list-style-type: none"> • Task Team Leader #1 • Future Task Team Leader #2 • Social Development Specialist • Land Management Specialist, FAO Consultant • Social Development Consultant • Procurement Officer • Procurement Analyst • Financial Manager Specialist • Social Development Specialist joined the mission part-time • Representative of the Government of Finland • Representative of the Government of Germany • Representative of ADB

SPN Mission & Key Milestones	PSR/ISR [Sequence and Archived Date]	Mission Participants
May 17-29, 2004 5 th supervision mission	#7 August 25, 2004	<ul style="list-style-type: none"> • Task Team Leader #1 • Senior Operations Officer • Future Task team Leader #2 • Social Development Officer • Land Policy Specialist, FAO Consultant • Social Development Specialist • Social Development Consultant • Procurement Officer and Financial Management Specialist participated part-time • Representative of the Government of Canada • Representatives of the Government of Finland • Representative of the Government of Germany • Representatives of ADB and JICA participated in key meetings
June 1, 2004		Change of Task Team Leader
September 27 - October 11, 2004 6 th supervision mission and Mid-term Review	#8 November 30, 2004	<ul style="list-style-type: none"> • Task Team Leader #2 • LASED Mission Leader, Senior Operations Officer • Senior Land Policy Specialist • Senior Land Counsel • Rural Development Officer • Social Development Consultant • Land Administration Consultant • Land Management Consultant • Institutional Development and Project Management Consultant • Chief Land Tenure Service, FAO, Land Valuation Specialist • Procurement Officer and Financial Management Specialist participated in the mission on a part-time basis • Senior Safeguards Specialist participated in a review prior to commencement of the mission • Sector Manager, EASRD and Resource Management Analyst participated in the mission from September 28-October 3 • Representative of the Government of Canada • Representatives of the Government of Finland • Representative of the Government of Germany • Representative of ADB • Representatives of JICA and DANIDA participated in key meetings
June 6-10, 2005 7 th supervision mission	#9 June 23, 2005	<ul style="list-style-type: none"> • Task Team Leader #2 • Senior Operations Officer • Rural Development Officer • Social Development Consultant • Land Administration Consultant • Procurement Officer and Financial Management Specialist participated in the mission on a part-time basis • Representatives of the Government of Canada • Representatives of the Government of Finland • Representatives of the Government of Germany • Representatives of ADB • Representatives of JICA and DfID participated in key meetings.
November 28– December 5, 2005	#10 December 29, 2005	<ul style="list-style-type: none"> • Task Team Leader #2 • Operations Officer • Monitoring and Evaluation Consultant

SPN Mission & Key Milestones	PSR/ISR [Sequence and Archived Date]	Mission Participants
8 th supervision mission		<ul style="list-style-type: none"> • Valuation Consultant • Land Management Consultant • Procurement Specialist • Financial Management Specialist • Fiduciary Specialist Consultant • Lead Operations Officer and Rural Development Officer attended key meetings • Representatives of the Government of Canada • Representatives of the Government of Finland • Representatives of the Government of Germany • Representative of ADB
June 6, 2006		Suspension of disbursement
-	#11 June 20, 2006	No mission: ISR prepared by Task Team Leader #2
February 5, 2007		Suspension of disbursement lifted
May 30-June 8, 2007 9 th supervision mission and Project review	#12 June 23, 2007 #13 June 26, 2007	<ul style="list-style-type: none"> • Task Team Leader #2 • Sector Manager • Future Task team Leader #3 • Rural Development Officer • Operations Officer • Procurement Specialist • Financial Management Specialist • Land Registration Consultant • Land Management and Education Consultant, FAO • Chief, FAO Land Tenure and Management Unit • Project Management and Governance Consultant • Representatives of the Government of Canada • Representatives of the Government of Finland • Representatives of the Government of Germany
June 15, 2007		Change of Task Team Leader
-	#14 December 28, 2007	No mission: ISR prepared by Task Team Leader #3
December 31, 2007		Extension of closing date from December 31, 2007, to December 31, 2009
June 4-11, 2008 10 th supervision mission	#15 June 27, 2008	<ul style="list-style-type: none"> • Task Team Leader #3 • Land Specialist • Legal Consultant • Financial Management Specialist • Financial Management Specialist • Procurement Specialist • Procurement Specialist • Representatives of the Government of Canada • Representatives of the Government of Finland
January 12-23, 2009	#16 April 8, 2009	<ul style="list-style-type: none"> • Task Team Leader #3 • Land Specialist

SPN Mission & Key Milestones	PSR/ISR [Sequence and Archived Date]	Mission Participants
11 th supervision mission		<ul style="list-style-type: none"> • Legal Consultant • Financial Management Specialist • Financial Management Specialist • Senior Procurement Specialist • Procurement Specialist • Good Governance Consultant • Chief, FAO Land Tenure and Management Unit • Representatives of the Government of Canada • Representatives of the Government of Finland • Representatives of the Government of Germany
June 8-12, 2009 12 th supervision mission	#17 [draft] July 8, 2009	<ul style="list-style-type: none"> • Task Team Leader #3 • Land Specialist • Legal Consultant • Financial Management Specialist • Procurement Specialist • Representatives of the Government of Canada • Representatives of the Government of Finland • Representatives of the Government of Germany
August 3-5, 2009 Safeguards Review Mission	#17 [current] October 30, 2009	<ul style="list-style-type: none"> • Task Team Leader #3 • Regional Safeguards Advisor • Senior Social Scientist • Land Specialist Consultant • Legal Consultant
September 7, 2009		Cancellation of undisbursed credit

Chart 1. Supervision Costs^(*): Bank Budget and FAO-CP



^(*) Excluding fiduciary supervision

ANNEX 7: LAND SECTOR REPORTS

1. Beneficiary Assessment of Land Title Recipients under the Land Management and Administration Project, Robert Deutsch, Team Leader, January 2006

- In order to assess how LMAP is seen by the beneficiaries and to provide feedback to help improve the effectiveness of the process, LMAP and its donor partners commissioned the independent Beneficiary Assessment (BA-I) of the systematic land-titling component in late 2005. The main outputs of the BA-I were set as follows: (1) to produce recommendations which will enable LMAP and its partners to strengthen the areas in systematic land titling and enhance their impact and effectiveness as a partner in local development; (2) to enable LMAP to review its guidelines and procedures and propose future strategy directions for its operations.

2. Legal Note: Identification/Demarcation/Classification of State Land and Permanent Forest Estate, John W. Bruce, Consultant, World Bank, 12/05/08

- The note provides an orientation to key issues in State Land management generally, then turns to the legal framework under which various State agencies identify, classify and manage State Land in Cambodia. It focuses primarily upon State Land identification and demarcation under Sub-decrees 118 and 53, which concern the Ministry of Lands, Urban Planning and Construction (MLMUPC) and the Ministry of Agriculture, Forestry and Fisheries, but also makes brief mention of ongoing identification and demarcation efforts by some other agencies holding State land.

3. Comments on Anticipated Subsidiary Legislation State Land Management Sub-Decree, No. 118/2005, John W. Bruce, LMAP Consultant, December 23, 2004

- To review plans for subsidiary legislation under the recently enacted State Land Management Sub-Decree.

4. Review of Experiences in Land Distribution In Cambodia, Katia Halabi, Consultant, August 2005

- In preparation of LASED program MLMUPC, the World Bank and GTZ required information to ensure that the preparation of this project can be tailored to the particular context of Cambodia, and draw benefit from past experiences in this country relating to land distribution. The review assesses and describes various experiences with settlement and land distribution in Cambodia, and assisted to prepare advisory guidelines on how key issues could be addressed by the LASED program.

5. External Evaluation of the Cadastral Commission of the Ministry of Land Management, Urban Planning and Construction, Boris Dongelmans and Suon Visal, TA GTZ, July 28, 2004

- The report assesses the implementation of the mandate of the Cadastral Commission (CC); identifies opportunities for developing the CC within the emerging Cambodian context, building on lessons of experience; and determines whether LMAP assists the work of the CC.

6. Pilot Independent Review of Systematic Land Titling Field Systems and Procedures (Transparency and Accountability), Consultant Declan O'Leary, February 2005

- The key objectives of this independent field monitoring are:
 - a. To conduct random field interviews, gather information on quality and levels of compliance (with particular reference to transparency and accountability issues) and provide feedback to MLMUPC and LMAP. In doing so, the Independent Field Monitors will determine, based on verifiable field evidence, how LMAP-supported systematic titling work in the urban areas is being perceived (on transparency and accountability issues) by the beneficiaries, NGOs/civil society groups, and how these people believe the work can be improved.

- b. To recommend follow-up action, on key areas, so that transparency and accountability of LMAP's systematic titling systems and procedures are strengthened and so that communities obtain the greatest possible benefit from the commitments and work of the government.
- 7. Potential Poverty and Social Impacts of Cambodia's proposed Social Land Concession Program - Presentation and Discussion of Results and Recommendations from the PSIA exercise, MLMUPC, General Secretariat of Social Land Concession, GTZ-LMAP, Land Management and Administration Project, Oxfam GB, Cambodia World Bank, EASRD, Khorn Dinravy and Andreas Groetschel, May 2004**
 - The objectives of the workshop were
 - a. To disseminate the findings of the studies carried out in the framework of the PSIA,
 - b. To present preliminary recommendations for a potential SC implementation program, and
 - c. To receive feedback on important issues for a larger scale program.
- 8. Monitoring and Evaluation Review of LMAP, Tony Burns, November-December 2005**
 - The major objectives of this report were to:
 - a. Review the LMAP Monitoring and Evaluation (M&E) system and the M&E chapter in the LMAP PMO Manual;
 - b. Review the current system of productivity allowances;
 - c. Undertake an overall review of financial management, including the payment of fees and allowances;
 - d. Review the LMAP Project Management Reports (PMRs) and the independent monitoring review and other relevant documents;
 - e. Prepare detailed recommendations on the implementation of the LMAP M&E system and outline possible changes to the productivity based allowances.
- 9. Introduction of a Land Valuation System in Cambodia, Report GTZ, and Land Valuation Report, 2005**
 - Studies to assist MLMUPC to design a land valuation system (LVS) which is simple, transparent, just, effective and not costly to set up and to maintain.
- 10. Cambodia Land Management and Administration Project, Draft Report on Organisational and Institutional Issues, W. A. Robertson**
 - The report reviews structure and systems in the MLMUPC as well as Project management, training at all levels and capacity building for management and technical and operational activity. As well this report considers the appropriate institutional aspects of the operationalisation of the Council of Land Policy; the structure of the secretariat and the role and responsibilities of the council and the secretariat.
- 11. Review of the Technical Specifications for National Ground Control Survey Works, Cambodia, prepared by Finnmap for LMAP, Henry J. Houghton, October 2004**
 - Objective of the review were:
 - a. Review the technical specifications prepared by Finnmap TA for LMAP against best practice for horizontal and vertical geodetic networks;
 - b. Prepare a short report which will advise on whether the specifications are technically sound, consistent with best geodetic practice, and appropriate for implementation in Cambodia;
 - c. Identify further issues which the specifications need to address to ensure that the networks will be sustainable.
- 12. Cambodia Land Titling Program: Baseline Survey Project, Final Report: Rural Phase I (Draft for Comments Only), Brett Ballard and So Sovannarith, Cambodia Development Resource Institute, in Collaboration with the Ministry of Land Management, Urban Planning, and Construction, Phnom Penh, Cambodia, July 26, 2004**

- The report on the collection of baseline data that will be used to assess the economic and social impact of land titles after three years. The Baseline Survey Project interviewed 1,232 rural households in 40 villages in 10 communes of five provinces during 19 January – 29 February 2004. The four LMAP provinces include Kompong Cham, Kompong Thom, Sihanoukville, and Takeo. The fifth province, Kompong Chhnang, is not in LMAP and serves as the control province for comparison with the four Project provinces. Households were randomly selected from village lists according to landholding size and gender. An additional urban 99 households were interviewed in Sihanoukville city (Sangkhat 2) and will be included in the final report along with the findings of the second phase of the baseline survey project in and around Phnom Penh.

13. Spatial Data Infrastructure (SDI) Policy Development for the Kingdom of Cambodia, Mathew Warnest, GTZ Technical Advisor, June 2005

- This exploratory report identifies the spatial information and activities of key Ministries, donor and support agencies and makes recommendations for the use, management and coordination of spatial information for consideration by the MLMUPC, the General Secretariat for the Council of Land Policy (GS-CLP) and the central PMO of the LMAP. The LAMDP is a long term program, envisaged in the 2001 Royal Cambodian Government Statement on Land Policy and is expected to be implemented over 15 years. A comprehensive land information system is recognized as critical to the success of LAMDP.

14. Speeding up the DKCC Procedure in Land Dispute Resolution. Findings and Recommendations with Regard to a Short Time Assignment in Support of the National Cadastral Commission on the Introduction of Mobile Teams, GTZ, Consultant Thomas Zitelmann, November 2007

- Purpose of this report is to provide suggestions for speeding up dispute resolution procedures within the work of the district offices of the Cadastral Commissions (CC). The findings are based on qualitative data deriving from an ethnographic perspective on the first two weeks of work of the two Mobile Teams (MT) under the 2nd Performance Based CC Pilot, which took place in Cheung Prey and Memot districts, both Kampong Cham province.

15. An Assessment of Land Management and Land Administration Education in Cambodia, GTZ and LMAP, Professor Sue Nichols, PhD., University of New Brunswick, August 3, 2004

- The main purpose of this evaluation was to design an action plan for improving and sustaining the 4 year Bachelor program established in the Faculty of Land Management and Land Administration (FLMLA) at the Royal University of Cambodia (RUA). The program is entering its third year and has had extensive support in teaching, curriculum development, and technical assistance from Germany and from the Land Management and Administration Project (LMAP) in the Ministry of Land Management, Urban Planning, and Construction (MLMUPC).

16. Facilitating the Process of Developing an Enhanced Program based Approach for Support to the Land Agenda in Cambodia, Klaus Talvela, Global Donor Platform for Rural Development, March 2006

- Report of the facilitation Mission of the Global Donor Platform for Rural Development (GDPRD) in the Land sector of Cambodia. Mission outputs included:
 - a. An updated log frame agreed amongst stakeholders for the land sector based on RGC's 'Strategy of Land Policy Framework,
 - b. Partnership principles guiding streamlining and coordination of donor support amongst donors and with RGC for the land sector.

17. Cambodia Land Titling Program Baseline Survey Project, Final Report: Urban Phase II, Brett Ballard and Phim Runsinarith, Cambodia Development Resource Institute in collaboration with the Ministry of Land Management, Urban Planning and Construction (MLMUPC), Phnom Penh, Cambodia, August 17, 2007

- Report on the collection of baseline survey data in and around Phnom Penh, Siem Reap and Serey Sophoan (i.e., Banteay Meanchey) from October to December 2005. CDRI conducted 2,706 household interviews in areas representing a mix of property characteristics (e.g., location, services) and land use patterns (e.g., residential, commercial), as well as dynamics (e.g., transactions, documentation, conflicts). The primary objective of the urban baseline survey project, as with an earlier rural survey project, is to generate data that will provide a basis for a systematic comparative *ex-poste* evaluation of the economic and social impact of the land titling programme after a certain period of time.

18. Center for Advanced Study, Towards Institutional Justice? An Assessment of the Work of Cambodia's Cadastral Commission in Relation to Land Disputes (2006)

- This is a mixed methods study on the Cambodian Cadastral Commission (CC), a body set up in June 2002 to resolve disputes involving unregistered land. It was conducted by the Center for Advanced Study in collaboration with the World Bank Justice for the Poor Program, NCC Secretariat and GTZ. The study undertakes a review of the functioning of the CC and evaluates a new case management/incentive scheme which was being piloted with the support of GTZ. Data sources include: (a) a survey of party satisfaction with the CC process, (b) an analysis of case files at district and provincial level offices of the CC; (c) semi-structured interviews with CC staff; and (d) qualitative case studies of land disputes before the CC. The study finds that the pilot did have a positive effect on the work of the CC but that it was poorly designed from an evaluation perspective and as such that it is difficult to quantify the impact. The report also includes recommendations for reforms which could enhance the extent to which the CC offers access to justice for the poor.

19. Center for Advanced Study, Justice for the Poor? An Exploratory Study of Collective Grievances over Land and Local Governance in Cambodia (2006)

- This paper represents the result of a series of case studies on land disputes analyzed in the light of previous scholarship dealing with issues of power and social structure in Cambodian villages. In trying to generate a more nuanced understanding of the ways in which power is exercised in rural Cambodia the paper looks specifically at collective grievances. This choice is informed by the possibility that collective action will offer an opportunity for the otherwise weak to extract greater responsiveness and accountability from the State. The paper's key findings relate to the existence of multiple rule systems for land management; the propensity for the tension between law and practice in land management to cause disputes; and the problematic nature of the attempt to impose legal/rational forms of authority on social relations that are structured around patrimonial power. In the absence of equitable rule based systems for allocating resources and resolving disputes the study concludes that political mobilization will be a necessary precursor to the success of rights based strategies.

**ANNEX 8A:
PROCUREMENT PROCESS:
COMMUNITY PARTICIPATION PROGRAM**

Assignment – Enhancing Community Participation and Independent Field Monitoring of the Implementation of LMAP components in the 11 target provinces Procurement Process carried out by LMAP Year 2004 – 2005 (before Project suspension)	
Steps	
1.	June 10, 2004 – LMAP submitted first draft Request for Proposals (RFP), including the Terms of Reference (TOR) to the Bank for review. The Bank reviewed and clarified with LMAP during the mission on July 26-27, 2004.
2.	August 25, 2004 – LMAP submitted revised draft RFP and draft Request for Expression of Interest (REOI). The Bank commented on the RFP on the same date and sent comment on REOI to LMAP on September 1, 2004.
3.	September 2, 2004 – LMAP sent revised RFP (including TOR) and REOI. The Bank issued no objection letter on September 2, 2004.
4.	LMAP advertised EOI from September 21 – 24, 2004 and sent the evaluation report of EOIs to the Bank on January 26, 2005. As the estimated cost for each contract (per province) would be around \$30,000, it was subject to Bank post review; the Bank provided no objection to the proposed short-listed NGOs on February 13, 2005 and informed LMAP to proceed further according to the Bank's Guidelines and retain documents for the Bank's post review.

Assignment – Effective Information Dissemination, Enhancing Community participation and Transparency in the LMAP Activities (11 provinces) Procurement Process carried out by LMAP	
Steps	
1.	LMAP submitted TOR for the Bank's prior review on October 12, 2006, taking into consideration the requirements of Annex 7 of the Action Plan for lifting suspension.
-	Bank responded with comments to the TOR on October 20, 2006.
2.	LMAP sent the revised TOR to the Bank on November 28, 2006. LMAP also stated that the recruitment of the consultants for this assignment would be conducted by the Procurement Agent.
3.	The Bank provided no objection to the revised TOR on November 29, 2006, and advised LMAP to complete the next initial steps in the selection process (RFP and advertising of REOI) which were conditions for lifting suspension, and indicating that the rest of the procurement process could be completed by the procurement agent. <i>[To be noted that in accordance with the suspension letter and amendment to the legal agreement of July 6, 2006, an independent procurement agent was required to be engaged and all procurement under the Project was required to be undertaken by such independent procurement agent.]</i>
4.	LMAP submitted draft REOI and RFP to the Bank on December 19, 2006.
5.	On Dec. 21, 2006 Bank provided no objection to REOI and asked LMAP to advertise it in the newspaper, and revise the RFP by using the Bank's Standard Format. On December 22, 2006, the Bank on behalf of LMAP also sent the REOI for advertising in UNDB.
6.	LMAP submitted revised draft RFP to the Bank on January 12, 2007.
-	Bank provided comment on draft RFP and advised to use CQS method on January 15, 2007.
7.	LMAP informed Bank on January 16, 2007 that LMAP received EOI responses from 7 NGOs/Firms.
8.	On Jan. 23, 2007 LMAP submitted revised RFP and informed the Bank on Jan. 25, 2007 that LMAP was starting the process of evaluation of EOIs.
-	Bank provided no objection to the RFP on Jan. 24, 2007
-	While the conditions for lifting suspension were met, there were no further steps taken in the selection process as the Procurement Agent did not get engaged by MEF until Nov 2007.
-	Because of the delay in the appointment of the procurement agent, the selection process was started again from the beginning by the procurement agent.

Assignment – Effective Information Dissemination, Enhancing Community participation and Transparency in the LMAP Activities (11 provinces) Estimated cost \$70,000 Procurement Process carried out by Independent Procurement Agent (IPA)	
Steps	
1.	IPA submitted TOR to the Bank for review on February 28, 2008. - Bank provided no objection on March 4, 2008. - REOI was advertised in UNDB online on March 10, 2008 and in the newspaper on March 7, 2008.
2.	IPA received 5 EOIs, prepared the evaluation of EOIs and sent the evaluation report to the Bank on August 27, 2008 even though <u>the assignment was subject to post review</u> due to special circumstance that only two firms were qualified in the short-list (while the Bank's Guidelines requires short-list of 3-6 firms). - Bank provided comment for revisions of the evaluation report on September 18, 2008.
3.	On December 8, 2008 IPA submitted the revised evaluation of EOI and the RFP to the Bank. - The Bank advised IPA on December 19, 2009 to proceed, further reminding IPA that this assignment was subject to the Bank's post review.
4.	RFPs were issued to three short-listed firms with the proposal submission date of January 28, 2009. On January 13, 2009, short-listed firms requested clarification on the TOR (which needed input from LMAP) and thus IPA issued the amendment to extend submission date to February 25, 2009.
5.	Extended proposal submission date again to March 13, 2009, pending response to the queries on the TOR. - Clarification sent to short-listed firms on February 27, 2009.
6.	March 5, 2009, IPA discovered that there was a mistake in inviting short-listed firms and asked the Bank for permission to re-launch the RFP to the short-listed fir - The Bank agreed and IPA re-issued the RFP to three short-listed firms on March 27, 2009 with the deadline for submission of proposals on May 19, 2009.
7.	Clarification sought from two firms and proposals submission date was extended to June 6, 2009
8.	May 29, 2009 IPA sought Bank no objection to arrange Pre-proposal Conference and extend the proposal submission date to July 21, 2009. The Bank agreed.
9.	On July 21, 2009, IPA informed all short-listed firms that the submission of proposals was on hold until the minutes of pre-proposal meeting were agreed. - Draft Minutes of pre-proposal meeting were submitted to LMAP Procurement Review Committee for approval before distribution to short-listed fir
10.	IPA was waiting for formal confirmation to proceed further.

ANNEX 8B
PROCUREMENT PROCESS:
LEGAL ASSISTANCE PROGRAM

Assignment- Legal Assistance Consultants In Cadastral Commission Cases in 5 LMAP provinces Procurement Process carried out by LMAP Year 2005 (before suspension)	
1.	April 12, 2005 – LMAP submitted draft TOR, REOI and RFP to the Bank for review and comment. - April 19, 2005 – The Bank provided comment to the REOI and the TOR.
2.	June 7, 2005 – LMAP re- submitted the revised TOR, REOI and RFP to the Bank and requested the Bank's no objection letter to proceed with REOI. The estimated cost of each contract (each province) was US\$25,000 and the selection method was based on consultant's qualification (CQS). - June 19, 2005 – The Bank provided no objection to the TOR, commented on the REOI and informed LMAP that these contracts were not subject to the Bank's prior review and asked LMAP to proceed further in accordance with paragraph 4 of Appendix 1 to the Bank's Consultant Guidelines.
3.	November 3, 2005 – LMAP submitted Evaluation Report of EOI to the Bank for no objection letter. The assignment was advertised in one Khmer language national newspaper on June 24 and 26, 2005 and in an English newspaper on June 24 and 27, 2005 with the deadline for submission of EOI on July 26, 2005. - November 11, 2005 – The Bank informed LMAP again that these contracts were not subject to the Bank's prior review. Nevertheless, if the proposed price (of any contract) was unexpectedly higher than \$100,000, then the Bank would prior review the evaluation report of such contract.
The procurement file ended at this stage.	

Assignment- Legal Assistance Consultants Procurement Process carried out by Independent Procurement Agent	
1.	February 28, 2008 – IPA submitted updated TOR and REOI for the Bank’s review. - March 4, 2008 – the Bank provided no objection letter and REOI. EOI submission date was March 28, 2008.
2.	June 16, 2008 – IPA submitted evaluation report of EOIs and draft RFP for review and no objection letter. - Bank provided comments on July 31, August 6 and 14 and September 18, 2008. IPA re-submitted the revised evaluation of EOI on December 10, 2008 and revised RFP on December 22, 2008. - Bank provided initial comments on December 24, 2008 to the short-listed consultants and the RFP, and at the same date requested internal review by Bank Country Lawyer.
3.	On January 30, 2009 the Bank provided comments received from the Country Lawyer to IPA after which on February 6 and March 5, IPA and the Bank communicated on the best course of action i.e., to cancel the current process and start again as the current process was conflicting with the PAD which stated that only NGOs would be hired to provide legal assistance. - The Bank agreed with cancellation of the recruitment process on March 10, 2009 and IPA issued notice to the firms who submitted EOI on the cancellation of process.
4.	On March 20, 2009 the IPA informed LMAP of the Bank’s decision to cancel the current selection process, revise the TOR and re-invite the REOI and asked LMA to review the amended TOR. IPA sent a reminder to LMAP again on April 21, 2009.
5.	On August 11, 2009, IPA informed the Bank that the updated TOR including all modifications agreed with the Bank had been sent to LMAP (as of March 20) However, LMAP sent such TOR to the NCC Secretariat (NCCS), MLMUPC. - NCCS was in disagreement with certain essential modifications proposed in the TOR for this assignment such as insisting on selection of "Local NGOs or Local Law Firms." This disagreement on the TOR by the NCCS was also a final position of LMAP.
6.	In the absent of consent to the final TOR, the IPA could not proceed further and reported as such to MEF.

ANNEX 9: GUIDE TO KEY LEGAL TERMS AND INSTRUMENTS

Law: An act of Parliament, signed by the King.

Sub-Decree: A regulation issued by the Government, signed by the Prime Minister, often providing details on the implementation of provisions within a Law.

Royal Decree: A decision of the King, issued in accordance with a proposition from the Government. Used to promulgate laws, appoint high level officials and sometimes with more general effect.

Prakas: A regulation issued by a minister; sub-ordinate to a sub-decree.

Land Law: The Land Law of the Kingdom of Cambodia, passed by the National Assembly on July 20, 2001, adopted by the Senate on August 13, 2001, signed by the King and effective as of August 30, 2001.

State Land: The State owns all land in Cambodia that: (a) falls into certain categories enumerated in Article 58 of the Constitution such as mountains, coastline rivers, canals, streams, lakes, forests; (b) is escheat (i.e., forfeited or abandoned) or given to the State; and (c) has not been subject to proper private appropriation or is not being privately occupied in accordance with Chapter 4 of the Land Law (see **Possessory Rights** below). State Land is of two types: **State Public Land** and **State Private Land**.

State Public Land: State land that has public interest uses, such as:

- Any property that has a natural origin, such as forests, courses of navigable or floatable water, natural lakes, banks of navigable and floatable rivers and seashores;
- Any property that is specially developed for general use, such as quays of harbors, railways, railway stations and airports;
- Any property that is made available, either in its natural state or after development, for public use, such as roads, tracks, oxcart ways, pathways, gardens and public parks, and reserved land;
- Any property that is allocated to render a public service, such as public schools or educational institutions, administrative buildings and all public hospitals;
- Any property that constitutes a natural reserve protected by the law;
- Archeological, cultural and historical patrimonies;
- Immovable properties being royal properties that are not the private properties of the royal family. The reigning King manages royal immovable properties. (LL Art. 15)

State Public Land cannot be sold or otherwise alienated, although it can be subject to an authorization to use for temporary purposes. (LL Art. 16)

People cannot acquire ownership of State Public Land through prescription (adverse possession) or through the special acquisition provisions of Chapter 4 of the Land Law 9 – i.e., through the conversion of Possessory Rights into ownership (see **Possessory Rights**). (LL Art. 16)

State Private Land: All State land that is not State Public Land. State Private Land may be subject to sale, exchange, distribution or transfer of rights. It may be leased out or the subject of a concession for economic or social purposes. (LL Art. 17 and Chap. 4).

Possessory rights: A person occupying land may claim a possessory right over that land leading to ownership (extraordinary acquisitive possession) in the following circumstances:

- The person possessed the property prior to August 30, 2001 (LL Art. 30) and the possession of property was unambiguous, non-violent, **notorious** to the public, continuous and in good faith. (LL Arts. 32, 38)
- The person acquired or inherited the property in good faith from someone who was a legitimate possessor as set out in (a) above. (LL Arts. 39, 71)
- The land in question must be able to be lawfully possessed – most importantly, it cannot be State Public Land (LL Arts. 16, 43). By contrast, land which would otherwise be State Private Land on which people had settled prior to August 30, 2001 can and often is the subject of legitimate claims to possessory rights.

A large majority of the parcels being titled under LMAP are properties to which people have rights through possession. That is, their right to title is based on showing that they have occupied the parcel in compliance with the above criteria, rather than on a pre-existing recognition of formal ownership.

Notorious possession: Possession that is conspicuous, capable of being observed by others, not hidden or secret. Notorious possession is one of the criteria that must be met in order for an occupant of land to assert a **possessory right** leading to ownership.

Conversion of State Public Land to State Private Land: If State Public Land is considered to have lost its public interest use, it can be converted to State Private Land. According to the Land Law (Art. 16) such conversion requires the passage of a **Law** – a **Sub-Decree** or **Prakas** not being sufficient for this purpose.

Systematic titling: The process of determining rights to land, and issuing and registering title to all parcels within a declared **adjudication area**, in accordance with Chapter VI of the Land Law and Sub-decree No.46 of 2002 on *Procedures of Establishing Cadastral Index Map and Land Register*. An Administrative Commission is formed for each adjudication area, and has the responsibility for overseeing the process of systematic titling, including: (a) arranging the public display of the cadastral index map and the list of owners; (b) receiving all complaints, investigating and resolving in accordance with the agreement; (c) making a conclusion on the adjudication record; and (d) making a proposal for providing the right to land to the occupants, or owners, or for keeping the land as State property. The adjudication record is finalized upon signature by the Provincial/Municipal Governor and the Minister of LMUPC. If it is not possible to determine ownership to a parcel because ownership is disputed, the dispute is referred to the Cadastral Commission for resolution before title is issued and registered.

Sporadic titling: The process of determining rights to land and issuing and registering title to parcels upon the request of the person claiming ownership to the land, under *Sub Decree on Sporadic Land Registration [No. 48 ANK May 31, 2002]*. As contrasted to systematic titling which is designed to cover all land within a given adjudication area, sporadic titling is an “on demand” process that is not restricted to an **adjudication area**.

Adjudication area: An area declared by a Provincial/Municipal Governor for systematic titling under Sub-Decree No. 46 of 2002.

Cadastral index map: A map of adjudication areas produced as a result of the systematic titling process, including the boundaries of all public and private properties demarcated and the classification of the land, such as cultivation land, forest land, submerged land, lands for industrial construction, etc.

Economic land concessions: Concessions of State Private Land issued for economic purposes, in accordance with the *Sub-Decree on Economic Land Concessions*, No. 146 ANK/BK, 2005.

Social land concessions: A legal mechanism to transfer State Private Land for social purposes to the poor who lack land for residential and/or family farming purposes, in accordance with the *Sub-Decree on Social Land Concessions*, No. 19 ANK/BK, 2003. SLCs are issued over vacant State Private Land (i.e., it is not intended as a mechanism for regularizing illegal occupation of State land) for an initial period of 5 years, after which (if certain conditions have been met) the concession may be converted into ownership.

Indigenous lands: According to the Land Law, Chapter 3, Part 2, an indigenous community is “a group of people...whose members manifest ethnic, social, cultural and economic unity and who practice a traditional lifestyle, and who cultivate the lands in their possession according to customary rules of collective use.” The lands of indigenous communities are “those lands where the said communities have established their residences and where they carry out traditional agriculture.” This includes land reserved for shifting cultivation. Ownership of indigenous lands is collective ownership, which includes all the rights and protections of private ownership except the right to dispose of any State public property that is included within the indigenous lands. Procedures for the registration of indigenous lands have recently been adopted in *Sub-Decree* [No 83 ANK, BK; June 09, 2009]. LMAP has not engaged in the registration of indigenous lands.