

VOLUME 1 – CHAPTER 3

LEGAL AND POLICY FRAMEWORK

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3 LEGAL AND POLICY FRAMEWORK

3.1 INTRODUCTION

Involuntary resettlement is not new to the Lao people. Centuries of changing fortunes have seen villages and groups of villages forced to relocate to survive. What is relatively new is the need for people to relocate in order to make way for development of projects considered to be in the national interest, such as hydroelectric schemes.

The principles of protecting such project affected peoples are enshrined in the Constitution whereby the State promotes people's ownership of land and guarantees equality whilst both obliging its citizens to protect the environment and aiming to shift the economy from subsistence based to commodity based. Further legislation promulgates these principles and offers specific protection for those required to resettle as a result of hydropower schemes in particular under the Law on Water and Water Resources and the Electricity Law described below.

Due in part to the size of the Project and previous experience on other hydropower schemes a number of pieces of legislation have been introduced to deal specifically with the Project. This legislation guarantees rights to those people who are to be resettled as a result of the Project including their rights to land and forest. Furthermore, the National Assembly has approved the agreement under which the concession for the Project is granted to NTPC detailing, *inter alia*, the obligations of both NTPC and the GOL to the resettlers.

This chapter reviews each of these aspects of the legal and policy framework in Lao PDR that protects, compensates and to some extent restricts the rights of the resettlers as follows:

- review of national laws and legal instruments that are of importance to the resettlers and the social development and resettlement program, including land and forestry rights;
- review of the national and Nam Theun 2 resettlement policies;
- review of the legislation that has been developed and approved specifically for the social and resettlement components of the NT2 project; and
- review of legal documents and policies that are not part of the usual national legislative framework including the Concession Agreement and the World Bank Policies

3.2 NATIONAL LAWS AND LEGAL INSTRUMENTS RELEVANT TO RESETTLEMENT

3.2.1 Introduction to the Legal Framework of Lao PDR

In 1975, the Lao People's Revolutionary party (LPRP) abolished the 1947 Constitution and all prior legislation. Much of the existing legislation, especially in the forestry sector, has been issued under the framework of the current Constitution (established in 1991). The current legal system can be described as a hybrid of a civil code and common law system, driven recently more by the need to adopt a large body of legislation, rather than by the capacity to implement the legislation.

The National Assembly¹, first elected in 1992 under five-year terms, has been an active legislative branch by passing nearly 50 comprehensive laws, each requiring issuance of implementing legislation by the Prime Minister, ministries and local authorities by way of decrees and regulations. Despite this growing base as a civil law structure, the legal system remains in an early stage, difficult to interpret, implement or enforce, especially in the natural resources sector.

Key legislation in the natural resources sector includes a Forestry Law and a Water Resources Law enacted in 1996, Electricity Law in 1997, an Environmental Protection Law enacted in 1999 and a Land Law first enacted in 1997 and amended in 2003. This legislation and its implementing regulations provide a legal foundation for the consideration of how resettlement is to be planned and carried out for a large hydropower scheme like NT2.

¹ The NA has the authority to initiate, review and pass laws as well as approve State budgets and socio-economic development plans, which have included annual timber harvest quotas. (Constitution, Ch. 4).

An overview of the pertinent articles contained in this legislation is provided below. Of particular interest is Article 28 of the Water Resources Law, which states that in the case of hydroelectric projects, the owners shall provide appropriate livelihoods for the resettled population and pay for this out of project funds. The Electricity Act, (Article 14 and 18), states that licensees shall pay compensation for any damage to private and/or public properties or rights caused by their project. Furthermore, MAF Orders 54 and 377 (1996) require that villagers receive compensation for resettlement due to infrastructure or development projects approved by the Government. Whilst this legislation provides guidelines specifically for resettlement it is also important to note that these laws also impose restrictions upon citizens generally with regard to their use of the country's resources. The resettlement policy will take into account these laws when planning guaranteed livelihoods for the resettlers, including the laws governing the use of forest products, agricultural land and fisheries.

3.2.2 The Constitution (August 14, 1991)

The Constitution is the supreme legal document in Lao PDR and all other legislation must be consistent with its provisions. Some of the Articles have been implemented by laws and regulations, but none related to the rights of ethnic minorities have yet been interpreted by the Court system. Clearly ethnic minorities and all Lao citizens have the constitutional right to protect their customs, their land and their culture and to enforce such rights against the State if infringed upon.²

Article 8: All ethnic groups have the right to protect, preserve and promote their fine customs and culture. All acts of division and discrimination among ethnic groups are prohibited.

Comment: Since the resettlers of the Project are of a variety of ethnic groups, careful attention must be made to ensure that NTPC's resettlement policy takes account of the customs and culture of each group. This principle relates not only to ethnic minorities but to all citizens, irrespective of their sex, or social status as further described in Article 22.

Article 13: The economic system objectives are the expansion of production and to transform the subsistence economy into a commodities economy.

Comment: Whilst the customs and cultures must be maintained, Lao PDR is a developing country in need of foreign investment and currency that the Project is to provide. At a micro-economic level the Project must look to provide the resettlers with the means of moving beyond subsistence living.

Article 14: The state protects and promotes all forms of state collective and individual ownership.

Article 15: As for the land, which is owned by the national community, the state ensures the right to use, transfer, and inherit it in accordance with the law.

Comment: Whilst the land in the Lao PDR is the property of the national community, individuals may acquire property rights akin to ownership. Where families are to be moved from their own land it is an important principle of the NT2 Resettlement Policy that the resettlers shall be granted permanent rights of ownership to the new land to the extent possible under Lao Law.

Article 17: All citizens must protect the environment and natural resources: land, underground, forests, fauna, water sources and atmosphere.

Article 22: Lao citizens, irrespective of their sex, social status, education, faith and ethnic group are all equal before the law.

Article 27: Lao citizens have the right to freedom of movement and residence as restricted by law.

Comment: For example, (i) the State must approve the use of all land, individuals are not permitted to 'squat' as further described under the Land Law below and (ii) the relocation of people from one province to another is regulated by and permission must be granted from the Ministry of Public Security. In addition, the freedom of movement must not be to the

² The Articles of Law in this chapter are an English summary of the provisions - they are not direct quotations. The English translations of the laws themselves are attached in Appendix C and D.

detriment of others, particularly current dwellers of an area or current resource users of an area, and thus the necessity to ensure Nakai resettlers are not unduly infringed upon by new immigrants, and that local peoples are not unduly affected by, for example, construction camp followers..

Article 28: Lao citizens have the right to lodge complaints and petitions and to propose ideas to relevant state organizations in connections with issues pertaining to the rights and interests of collectives or of their individuals. Complaints, petitions and ideas of citizens must be considered for solutions as prescribed by law.

Comment: This principle is incorporated into the NT2 resettlement process in two main ways (a) through consultation process, both prior to resettlement and during resettlement, and (b) the implementation of various grievance procedures.

3.2.3 Land Legislation

3.2.3.1 *The Land Law (revision of 21st October 2003)*

The Land Law is the key legislation covering the rights and procedures regarding the framework for tenure, access, use and management of land, including forestland, by villagers and other parties within the NT2 watershed and resettlement areas. It is based on the Land Law of 1997 with minor amendments. PM Decree 3 and MAF Instruction 822 implement provisions of the Land Law regarding the allocation and zoning of forestland within village boundaries, Decisions of the Ministry of Finance (996, 997 and 998) govern land titling whereas PM Decree 150 governs land tax issues.

See Articles 70 and 71 below, MAF Orders 54 and 377 and the Electricity Law for sections governing the right of villages to just compensation for the taking of land by the State for the public good.

Article 3: Land within Lao PDR is the property of the national community (as stated in the Constitution, Article 15) for whom the State is the uniform central administrative representative throughout the Country and individuals . . . are assigned to effectively use the land . . . (only non-forest land held in private title or land held under a long-term lease can be transferred).

Article 5: The State protects the legal rights and benefits of those who have effectively received the right to use land including the right to transfer it.

Article 6: Individuals . . . have the duty to preserve land in good condition.

Article 7: Individuals or organizations are prohibited to squat on the land, the use of land must be approved by the State.

Article 13: The State authorizes Lao citizens to lease state land for a maximum period of thirty (30) years. Such lease may be extended on a case-by-case basis.

Article 17: The State may authorize individuals to use agricultural land:

- for growing rice and raising aquatic animals not to exceed two hectares per one labourer in a family;
- for fruit orchards and vegetable farming not to exceed three hectares, respectively, per one labourer in a family.

Article 18: The district may grant the right to use agricultural land within its administration.

Article 21: The State authorizes individuals to use forest lands (defoliated or degraded) not to exceed three hectares per one labourer in a family.

Article 22: The district . . . may grant the right to use forest land within its administration . . . (DAFO administers land use allocation in coordination with Lands Office).

Article 43: Land registration is to certify the legal use of land to individuals and organizations.

Article 63: The right of an individual to use land shall terminate when . . . (2) the State takes back the land in the public interest. (however, the landholder is entitled to just compensation for the taking by the State – see Article 70 below, MAF Orders 54 and 377 and the Electricity Law).

Article 65: Term of Lease or Concession of Land

For specific economic zone and special economic zone, the maximum lease or concession term of the land shall not exceed seventy-five (75) years and may be extended on a case by case basis by approval from the National Assembly.

Leases or concession of land area over ten thousand (10,000) hectares must be approved by the National Assembly.

The determination of actual lease or concession term shall be subject to the features, size and conditions of each activity.

Article 70: When it is necessary to use an individual's land in the public interest, the State must make appropriate compensation for damages.

Article 71: In determining damages, there must be a Committee comprised of representatives of interested parties to determine the value of the damages.

These articles illustrate the inextricable involvement of the State in all aspects of the rights of individuals and organizations to land, from granting the tenure under Articles 3 and 43 to the use to which that land can be put under Articles 17, 18, 21 and 22. This governance is performed at both a central and district level through the relevant ministries. The location of the land for the NT2 project suggests that the rights to use are primarily under the control of the Ministry of Agriculture and Forestry.

3.2.3.2 Land Titling Legislation

To secure the tenure rights of the resettlers to their resettlement land, two issues must be addressed (a) the individual household rights to their homes and agricultural plots and (b) the communal rights of the villagers to the forest land. The Ministry of Finance is currently supported by the World Bank in its process of registration of land parcels in Lao PDR. This has focused primarily on municipal areas where the Land Titling Department systematically registers parcels of land in a town. The implementation of land titling program is guided by three Ministerial Directives: MD No. 996/MoF, 24 June 1998, MD No 997/MoF, 24 June 1998 and MD No. 998/MoF, 24 June 1998). The titling of agricultural and housing land for NT2 will be performed under the two first MDs, 996 and 997.

As described above, whilst the land within the Lao PDR is the property of the national community, individuals may have the right to use, transfer and inherit land. The land registration project under the above Ministerial Directions assesses an individual's right to the land and if successful in showing such right is issued with a land title registered in a Land Register Book and Land Parcel Register Index specific to each village. Such registers are managed and maintained by the Provincial and Municipal Office of Land and Housing Management. Such title can be inherited, sold and be the subject of a court order (known as permanent assignment). It may also be leased or mortgaged (indefinite assignment). It is important to note that the legislation providing the registration flows through from the Land Law not the Forestry Law. The land title provides the owner with security of tenure for that land but it does not address the specific uses such land may be put to or classified as (for example agricultural or forestry land).

The NT2 Project, in conjunction with the Ministry of Finance intends to register the resettlement housing and agriculture land in the name of the individual households (husband and wife's name shall appear on the title certificate) using the procedure based on the Ministerial Direction on Systematic Adjudication of Land Use Right No. 997/MoF.

Whilst it is vital to provide the resettlers with security of tenure it is also important for the success of the resettlement programme and the sustainable livelihoods of the resettlers, that the resettlers remain the owners of their houses, housing land, agricultural land and the irrigation system serving these lands during the whole of resettlement period. In accordance with Articles 15 and 18 of Direction No. 996, each land certificate and the Land Registry Book will be endorsed to the effect that the resettlers are not permitted to sell their land during the 8 to 9 year Resettlement Period without the express permission of the Grievance Committee.

According to the law, before a land title can be issued the resettlers must show that they have a right to that land. To some extent this is achieved through PM Decree 193 establishing the boundaries of the

resettlement and forest areas for the NT2 resettlers³. Article 9 states that this area will be allocated to the households to establish their houses and manage the forest area in sustainable manner. NTPC is currently working with GOL to finalize a PM Decree specifically confirming the rights of the resettler to land titles and to ensure that the land is not for the use of those other than the resettlers (see Section 3.9 below).

3.2.4 Forestry Legislation

3.2.4.1 *The Forestry Law, No. 004 (October 11, 1996)*

The Forestry Law provides the framework for all implementing legislation in the forestry sector. There have been many regulations and orders issued by MAF to implement in a consistent manner the key Articles in the Forestry Law. Of importance to the NT2 resettlement policy is the relationship with the Forestry and Land Laws, specifically relating to the allocation, zoning and use of forestland within village boundaries and protected areas.

Article 5: Natural forests and forestlands are the property of the national community whom the State represents in the administration and allocation of individual use and reasonable organization. Individuals and organizations shall have the right to possess and use trees, natural forests and forest land only when authorized by the authoritative agencies.

Comment: the Nakai Plateau resettlers have been given this authorization (see section 3.5).

Article 7: Individuals and organizations having received forest and forest land allocations from the State for their preservation and management shall be entitled to compensation and interest, such as the use of wood, gathering of forestry produce etc (see also customary rights in Article 30).

Article 12: After allocation of forest categories and determining forest areas and lands, the Government shall assign rights to local authorities, from there the province shall assign to the district who shall assign to the village responsible.

Comment: MAF Ministerial Authorization 0063/29-4-02 given to the Province to assign to the Nakai plateau resettlers the rights to use the Resettlement Area forests (section 3.5).

Article 13: The State assigns the use of degraded forest land to individuals and organizations in accordance to their labour and financial capacity for forestation or revival and to individuals for an area not exceeding three hectares per labour in the family (legal basis for allocation of degraded forestland to villagers under PM Decree 3 and MAF Instruction 822).

Article 14: Where necessary for public interest, forests and forest land may be used for other purposes, subject to prior approval from the competent authorities (approval derives from either MAF, PAFO, DAFO or the Government depending on the size of the forest area).

Comment: A Resettlement Committee Regulation (Provincial Decree) will provide guidelines for the land and forest use planning on the Resettlement Area, specifying how urban, peri-urban and agricultural areas will be identified, and how claims to such areas by individuals or companies or other agencies will be reviewed and approved.

Article 16: Forests in the Lao PDR are classified into the following five categories:

1. Protected Forests
2. Reserve Forests
3. Production Forests
4. Regeneration Forests
5. Degraded Forests

Article 30: Traditional use of forests and forest land refers to the long-standing use of forests, forest land and forest produce as acknowledged by the society or law, which includes non-restricted wood collecting for fencing, firewood, forest produce gathering, hunting and fishing of non-restricted species for family consumption, and other traditional uses. Such traditional use shall avoid causing damage to the forests or forest resources, and shall avoid

³ A further description of legislation dealing specifically with rights of the resettlers to land and forestry of the NT2 Project is provided under the section 3.5 describing the Nakai Plateau Village Forestry Association.

prejudicing the interest of individuals or organizations. The traditional use of forests, forest land and forest produces shall abide by the village forest and forest land regulations. (See also MAF Orders 377 and 54 and MAF Regulation 535 for scope of customary use).

- Article 48: The right to possess and use forests and forest land is acquired through transfer, deliver or inheritance.
- Article 50: Grant of rights to possess and use forest and forest land is decided by the concerned agencies with authority in allocation of forest and forest land for long term and stable possession and use by individuals and organizations based on contracts and specific regulations.
- Article 51: The right to possess forest and forest land is the right to preserve and use the received forests and forest land for a purpose to meet the requirements for persons enjoying the rights of possession and use.
- Article 59: The forestry management agencies include the Ministry of Agriculture and Forestry, the Provincial/Municipal Agriculture-Forestry Services, the District Agriculture-Forestry Offices and the Village administrative authorities.

Most of the forest land in the resettlement area on the Nakai Plateau will need to be classified as Production Forests under Article 16 of the Forest Law, which may further be zoned into each of the forest categories within village boundaries. If any area is to be designated Production Forest, it should comply with recent reforms in PM Decree 59 (2002) and its implementing MAF Regulation on Sustainable Management of Production Forest Areas.

Some areas within the resettlement will also be classified as Protection Forest, especially those areas containing forests on slopes greater than 25 degrees; and in which limited utilisation of forest products but no logging or other significant physical disturbance will be permitted. Although MAF has not issued a specific regulation for designation or management of protection forests, it is a stated objective in the Forestry Law, Article 17, and the Water Law, Articles 13, 29 and 30, to protect watersheds. Moreover, pursuant to MAF Instruction 822, protection forest zones designated as a result of land use planning and allocation within a village boundary shall meet the objective of protection of key watersheds.

Within the resettlement area, there are areas of degraded forests, and these areas will either be regenerated (Forestry Law, Article 20), used for forest plantations or allocated to villagers for tree planting and designated under the Customary Use provision in the Forestry Law (Article 30). Some will be re-classified as agricultural land.

3.2.4.2 PM's Order 18 on Forest Management Policy 2002-2003 (Oct.4, 2002)

This most recent PM Order on Forestry Management states that the GOL continues its policy to strictly ban the export of logs from natural forests and further bans the export of sawn timber from natural forests (prior PM Orders 10 and 15 only encouraged the restriction on exports of sawn timber). This Order also requires production forest areas to implement PM Decree 59 (2002), Articles 9 and 11 (Appendix C 4.1).

3.2.4.3 Regulation on Establishment and Sustainable Management of Production Forest (3rd October 2003)

The operation of the Nakai Plateau Villagers Forestry Association will follow these regulations except for Article 18 on 'Benefit Sharing from Log Sales, Harvesting in PFAs'. Apart from payment of relevant government taxes, revenues will be paid to operation and maintenance of the NPVFA and dividend to villagers as income support (see Appendix C 4.2).

3.2.5 Law on Water and Water Resources, No. 005 (November 11, 1996)

The law on water and water resources recognizes water as the principal natural resource and the need to regulate, exploit and administer both its use and the use of plants, animals and minerals found within aquatic environments. Of particular relevance to the issues of resettlement are the following:

Article 25: The Government promotes the development and use of water resources in small, medium and large scale energy production from water sources with such potential. The use of water resources shall consider its potentials and impacts.

In building a hydropower dam, consideration shall be given to the preservation of: the sources of water, forests, the environment, flood protection, water supply, irrigation, water transport, fishing and fisheries, aquatic life and others.

Article 28: When resettlement is necessary from the area and vicinity of water sources development projects, project owners shall provide assistance in providing appropriate shelters and livelihoods for the resettled population. The funds used to finance resettlement, assistance or compensation to the population shall be included in the projects' investment.

Article 29: ... there are still strict obligations to preserve and rehabilitate and maintain forest resources and forestlands in water catchment areas in conformity with the water source allocation plan, forests, land, and seasons, specifically in the area of water origins or around water sources.

These articles provide the basis of the Project's broad obligations for environmental mitigation but also for assisting the resettlers, whilst recognizing the potential for hydropower in Lao PDR. As discussed in Chapter 19 and under the Concession Agreement (Appendix A), the Project has included the costs of resettlement in its overall investment budget.

3.2.6 The Electricity Law No. 02 – 97 NA (Effective August 29, 1997)

This Law requires a license for the generation and transmission of electricity. Article 14.2 states that “the investor shall submit an environmental impact evaluation which shall include the estimated costs of potential damages and relocation of local residents who may be affected as a result of such electricity production project”. Article 18.7 states that “the licensee shall pay for damages to the environment, living conditions and properties of residents, or compensate for costs of relocation of residents”.

3.2.7 Road Law (April 3, 1999)

Article 19: If the road construction works in various classes need to use the land owned by a private person or by an organization having the right to use it by law, the owner of the land to be expropriated shall receive a reasonable compensation.

3.2.8 Legislation Relevant to Trafficking in Humans

The NT2 Project will address the potential problem of human trafficking, especially during the construction phase of the project, due (a) to the presence of a large labour force and camp followers, (b) the considerable overland haulage traffic, and (c) in the longer term, due to the greater accessibility afforded to and from previously remote villagers. The Lao PDR does not have a law that exclusively addresses human trafficking. However, several provisions of the **Penal Code** (dated December 1989) can be used to prosecute trafficking-related offences, such as:

- Article 92 prohibits the trading or abduction of persons;
- Article 119 establishes criminal penalties for rape; and
- Article 122 and 123 prohibits prostitution and procuring for prostitution.

The **Labour Law** (dated 14 March 1994) also protects against workplace aspects of trafficking, such as;

- Article 4 prohibits forced labour;
- Article 33 prohibits employment of women in potentially injurious work and night work; and
- Article 34 prohibits strenuous work during and shortly after pregnancy.

The Lao PDR is also a party to several international treaties that address human trafficking. The Ministry of Justice and others are considering possible amendments or additions to the legal framework to strengthen the prosecution of trafficking offences.

3.2.9 Legal Framework for Ethnic Minorities

3.2.9.1 Classification of Ethnic Groups in the Lao PDR

Lao PDR is a multi-ethnic country with 49 ethnic groups divided into four main language groups: Lao-Tai, Mon-Khmer, Sino-Tibetan and Hmong-Mien. Scholars have classified up to 132 ethnic groups and sub-groups. The latest official classification was compiled by the Department for Ethnic Affairs of the Lao Front for National Construction (LFNC) in 2002.

- Tai-Lao groups reside primarily in the lowland regions of the country and for the most part cultivate paddy, practice Buddhism and are integrated into the national economy (referred to as Lowland Lao or Lao Loum). This group includes the Tai Lao, the dominant group, and various related ethnic groups such as the Tai Dam, Tai Lüe, Phuan and other Tai-speaking groups, consisting of approximately 55% of the population.
- Mon-Khmer groups (often called Upland Lao or Lao Theung) live in the middle hills, practice swidden agriculture, are reliant on forest products and are relatively isolated from the dominant lowland culture, although there has been assimilation and integration for centuries. The Khmu, Makong, Kata, Loven and other smaller groups are the original inhabitants of mainland SE Asia and presently make up approximately 30% of the population.
- Sino-Tibetan groups (referred to as Highland Lao or Lao Soung) dwell for the most part in highland areas and practice swidden agriculture. These groups, Akha, Lahu, Lisu and Pounoy among others, are recent arrivals from Southern China and form about 5% of the population and confined mainly to the north of the country.
- Hmong-Mien groups, including the Hmong and Yao are also referred to as Lao Soung since they tend to inhabit highland areas in northern and central provinces and practice swidden agriculture. These groups are also recent arrivals from Southern China and form about 10% of the population.

The term ‘indigenous peoples’ is not used in Lao PDR, as is the case in Vietnam and China. Rather the term ‘ethnic groups’, which corresponds to the Lao term, *xon phao*⁴ is used to describe all ethnic groups in the country. The challenge, therefore, in terms of application of OD 4.20 is to define which ethnic groups (minorities) are covered under its provisions and which represent examples of the dominant mainstream culture. All ethnic groups on the Nakai Plateau are categorised as being minorities (see Chapter 3, Volume 2 of the SDP), and a considerable number of PAPs in the downstream areas (Chapter 7, Volume 3) and Project Lands (Chapter 4, Volume 4).

3.2.9.2 Legal Status of Ethnic Groups in Lao PDR

The Lao PDR Constitution (1991) and other legislation recognize the unity and equality of ethnic groups in the political process and protect their rights to preserve and improve their unique traditions and cultures (Const., Articles 1, 2, 3, 8 and 22). All ethnic minorities have the right to Lao citizenship, to use native languages and to practice traditional customs and religions (Const., Articles 8 and 9). The Constitution prohibits any act that discriminates against or divides ethnic groups (Article 8). Ethnic groups maintain land tenure user rights equal to all Lao citizens with certain specifications (see Section 3.3.6) and even preferential access and customary user rights to certain forest products (Forestry Law, Article 30; MAF Regulation 535; MAF Orders 54 and 377).

As the primary legal document in Lao PDR, the Constitution provides a framework and minimum rights to be implemented in legislation. However, since the court system remains underutilized, it is difficult to enforce such rights or resolve conflicts between ethnic groups and the government or other stakeholders. Legislation in Lao PDR recognizes primary land tenure and resource user rights for ethnic groups, but most of them remain unaware of these rights under national legislation due to the inability of the government to provide extension to remote ethnic villages. Thus the NT2 Project should focus on providing extension of legislation and rights to the ethnic minority groups and assist in establishing village based rules and management.

⁴ The Lao term, *xon phao*, is derived from two words: *xon*, meaning ‘together’ and *phao*, meaning ‘clan’, ‘family’, ‘line’ or even ‘race’. Hence the usual translation of ethnic group in official parlance. The expression implies a sense of common identity based on kin relations, marriage and racial background. The Lao also use the expression *xon phao noi* (ethnic minorities) and *xon phao nyai* (larger ethnic groups).

Table 3-1: Ethnic Groups and Sub-Groups (Institute for Ethnic Studies, Vientiane, 2000)

Lao-Tai ethno-linguistic group – 8 ethnics		
1	Lao	Phouen <i>Kaleung</i> <i>Bo</i> <i>Yoi</i> <i>Gno</i>
2	Phou Tai	
3	Tai	<i>Tai Dam</i> <i>Tai Deng</i> <i>Tai Khao</i> <i>Tai Meny</i>
4	Lu	<i>Khun</i>
5	Gnuan	<i>Kalom</i> <i>Ngiao</i>
6	Yang	
7	Sek	
8	Tai Neua	

Mon-Khmer group: 30 ethnicities		
9	Khmu	<i>Kasak</i> <i>Ou</i> <i>Lu</i> <i>Gnuan</i> <i>Kbrong</i> <i>Kheun</i> <i>Me</i> <i>Chuang</i> <i>Rok</i>
10	Pray	<i>(Pray)</i>
11	Sing Mul	<i>(Sing Mul)</i>
12	Phong	<i>Piat</i> <i>Lan</i> <i>Fen</i> <i>Chapuang</i>
13	Then	
14	Eudou	
15	Bit	
16	Lamet	
17	Samtao	<i>Doi</i>
18	Katang	<i>Phakeo</i>
19	Makong	<i>Trui</i> <i>Phoua</i> <i>Maroib</i> <i>Trong</i>
20	Tri	
21	Yuru	<i>Kong</i> <i>Yinr</i>
24	Yeh	
25	Brao	<i>Kavet</i> <i>Halang</i>
26	Katu	<i>Triou</i> <i>Dakang</i>
27	Harak	
28	Oi	<i>Sapuan</i> <i>Sok</i> <i>In Thi</i>
29	Krieng	<i>Chatong</i> <i>Kob</i>

Mon-Khmer group - continued		
30	Cheng	
31	Sadang	<i>Kayong</i> <i>Sadang Duan</i>
32	Suey	
33	Gnaheun	
34	Lavi	
35	Pako	<i>Kado</i> <i>Kanai</i>
36	Khmer	
37	Toum	<i>Liha</i> <i>Thai Cham</i> <i>Thai Pong</i>
38	Nguan	
39	Muang	
40	Kri	<i>Maleng</i> <i>Labri</i>

Sino-Tibertan group – 8 ethnicities		
41	Akha	<i>Oma</i> <i>Kheu</i> <i>Muteun</i> <i>Chicho</i> <i>Puli</i> <i>Pana</i> <i>Fe</i> <i>Mukui</i> <i>Luma</i> <i>Eupa</i> <i>Chipia</i> <i>Muchi</i> <i>Ya eu</i> <i>Kongsat</i>
42	Singsri	<i>Phou Gnot</i> <i>Tapay</i> <i>Ban Tang</i> <i>Cha Ho</i> <i>Lao Seng</i> <i>Phay</i> <i>Lao Pan</i> <i>Phong Kou</i> <i>Phong Set</i>
43	Lahu	<i>Lahu Dam</i> <i>Lahu Khao</i> <i>Kui</i>
44	Sila	
45	Hani	
46	Lolo	
47	Ho	

Hmong Iumien Group		
48	Hmong	<i>Hmong Khao</i> <i>Hmong Lai</i> <i>Hmong Dam</i>
49	Iumien	<i>Lanten</i> <i>Yao Phomdeng</i> <i>Yao Khao</i>

The National Assembly has a special Committee on Ethnic Affairs to draft and evaluate proposed legislation to ensure that the concerns of ethnic minorities are incorporated and not infringed upon. The lead institution for ethnic affairs in Lao PDR is the Lao National Front for Construction (LNFC), which has an Ethnic Affairs Department. Research on ethnic groups is the responsibility of the Institute for Cultural Research under the Ministry of Information and Culture.

3.2.9.3 Polices Regarding Cultural Diversity

The Government of Lao policy has prioritised national unity with cultural diversity focusing on improvement of livelihoods of ethnic groups throughout the country. Specifically, the Resolution of the Party Concerning Ethnic Minority Affairs in the New Era (1992) focused on improving the lives and protecting the cultural identity of ethnic groups as a cornerstone of government policy. In 1996, a national workshop concluded that the 1992 policy had not been sufficiently implemented and established a new work plan to address these issues. The current National Social Economic Development Plan (2001-2005) does not specifically recognize ethnic groups. However, the national policy for poverty alleviation among ethnic populations in remote areas remains a cornerstone to development. It is important to note that government policy links poverty reduction to stopping pioneering shifting cultivation while recognizing sustainable rotational practices.

3.3 NATIONAL RESETTLEMENT POLICY AND GUIDELINES - 2003

An examination of the relevant laws and decrees indicates that the Lao people have certain basic rights and obligations in relation to resettlement. Among these the right to receive compensation for land withdrawn by the State is paramount. However, while compensation is an important factor in instances that call for resettlement, it is not the only factor. Successful resettlement requires that detailed plans are prepared in advance and that such plans are based on a general set of principles and rules that would apply to the preparation and implementation of these plans.

The National Resettlement Policy is one such set of principles and rules. A first draft of this policy, formulated by the Chairman of the NT2 Resettlement Committee, was discussed at the NT2 Resettlement Policy Workshop in Thakhek in September 1996, attended by more than forty national, provincial and district government officials and representatives from other organizations. Subsequently, changes and suggestions resulting from the participants were incorporated into a second draft of the policy. This and further drafts of the policy have been reviewed separately by the World Bank, the Panel of Experts and the Asian Development Bank. Workshops including government officials from a range of ministries have also been used in the development of the policy by STEA⁵ (see Appendix C9.1 for the final draft of the policy).

The policy is to be implemented by way of a PM Decree (the latest draft of which is attached in Appendix C9.2). The provisions of the Decree aim to:

- (i) help integrate social dimensions in development projects,
- (ii) address measures to mitigate adverse social impacts, in a particular focus on vulnerable groups; and
- (iii) have a comprehensive approach to address social issues in development projects.

The Decree also aims to ensure that mitigation measures, including compensation relocation and economic restoration of affected people are carried out in accordance with the provisions and stipulations of the Constitution and the various relevant applicable Laws and Decrees of government taking into consideration special needs and features of the various ethnic groups of the Lao PDR.

The STEA is assigned to issue requisite Implementation Regulations and Resettlement Technical Guidelines in support of this Decree and to regulate resettlement planning and implementation activities in development projects nationwide, and the latest draft of these (dated 15 April 2004) is attached in Appendix C 9.3.

⁵ The material presented in the Policy is generally culled and assembled from several sources. Major among these include the ADB's *Handbook on Involuntary Resettlement*; *World Bank's Draft Source Book on Resettlement*; *Resettlement Guidelines* prepared under ADB TA 3133-LAO, "Strengthening Social and Environment Management in Lao PDR", July 2000; and *Resettlement Guidelines* prepared under the WB funded "Hydropower Development Strategy for the Lao PDR" in September 2000. Additionally, information presented in the Policy is also drawn heavily from several development projects in Lao PDR as well in neighbouring countries. Where relevant, international best practice examples are presented in the Guidelines with an objective to bring these Guidelines to acceptable international standards, without losing focus on the country context. The final policy and the decree have been prepared under ADB loan 1857: Environment and Social Program. The policy and Decree have been approved by Cabinet and the Decree's scheduled to be issued by the Prime Minister within 2004.

3.4 NAM THEUN 2 RESETTLEMENT POLICY AND SUBSEQUENT RC REGULATIONS

Development of a resettlement policy specific to NT2 has taken place in parallel with the preparation of the draft national policy. It has been undertaken in large measure by the NT2 Resettlement Committee, which was set up by GOL in 1995. The steps in the process to prepare a project-specific resettlement policy have been:

- September 1996 - NT2 Resettlement Policy Workshop in Thakhek.
- March 1997 - Review by NT2 Study of Alternatives; review by GOL Workshop, and discussion by Public Briefing Session.
- May 1997 – Review by World Bank Mission.
- June 1997 – 2-day Public Consultation Workshop; review by POE and IAG.
- February 1998 - Approval by State Planning Committee of NT2 Resettlement Policy.
- January 1999 - 2 day Public Consultation Workshop on RAP.
- September 1999 - GOL approval of RAP, including NT2 Resettlement Policy.
- November 2001 and January 2003 – World Bank Safeguards Policy Missions.
- July 2002 – Resettlement Committee Policy Adjustment.

The Policy was last discussed at the GOL Committee of Planning and Cooperation on July 22, 2002. At that time a few changes required to take into account comments and the results of discussions on the Concession Agreement described below.

The NT 2 Resettlement Policy sets out the objectives of the policy, the geographical and impact areas it covers, and then the policy guidelines. It is presented in full below.

It should be noted that the area/populations of policy coverage is not restricted to those listed in Article 2, but includes all areas and persons affected by the Project as of the eligibility cutoff date of the household survey conducted in 2003. In addition, Article 2 clause 2.1 will also include PAPs on the Nam Theun downstream of the dam, and those affected by substations. In articles 4 and 5, all affected persons are entitled to rehabilitation as well as compensation. Article 5, clause 5.8 may be revised to ensure that all affected people occupying land - regardless of proof of recognizable rights or claims to land - will still qualify for entitlements. They may not be entitled to compensation for loss of land but are still entitled to compensation for their loss of livelihood and legitimate assets, and to other assistance so that that they will be at least as well off as they would have been in the absence of the Project.

Nam Theun 2 Resettlement Policy (translation of the 2002 policy)

Article 1: Objectives of the Resettlement Policy

- 1.1. This policy outlines the basic principles and measures governing the resettlement, provision of agricultural and forestry production areas and compensation to the population of the Nam Theun 2 Project zones, with the view of upgrading and ensuring sustainable livelihoods.
- 1.2. It provides that the population participates in the consultation, planning and design process of their new settlement and production areas.
- 1.3. It provides for the application of special measures as required towards ethnic minorities and vulnerable persons to assist them to take care of their needs and foster self-reliance.
- 1.4. It provides for the construction of infrastructure in new settlements areas in accordance with designs approved by the Resettlement Committee in the best interests of the population in and around the RAs.
- 1.5. The population to be resettled should materially improve its standard of living after relocating; individual household incomes should be above the national poverty line within four years after physical relocation and should be supported in the interim period.
- 1.6. The policy provides for replacement land being available to all those interested; cash compensation would only be considered for those with specific plans to permanently move out of the district.
- 1.7. The resettlement and rehabilitation plans will be conceived and executed as specific development plans.

Article 2: Policy Areas

The areas of this policy are those where the population is directly and indirectly impacted by the Nam Theun 2 Project, including:

2.1. Khammouane Province

- Nakai District: The dam and reservoir area covers the territory of 15 villages in Nakai District.
- Gnommalat District: The powerhouse, weir and water basin, outflow channel from the powerhouse and first portion of the high voltage transmission line.
- Mahaxai District: Outflow canal to the Xe Bangfai and the middle portion of the high voltage transmission line.
- Thakhek District: The 115kV transmission line, from Mahaxai to Thakhek.
- Nong Bok and Xe Bangfai Districts: Xe Bangfai downstream.

2.2. Savannakhet Province

- Xaybulee: May affect by releasing water from the reservoir and to Xe Bangfai and remaining portion of the high voltage transmission line.
- Khanthanbouly District: and remaining portion of the high voltage transmission line.

2.3. Bolikhamxay Province

- Khamkeut District: One portion of the reservoir on the dam's right side, the new road, and two villages: Ban Sop Hai and Ban Nam Nian

The NT2 Resettlement Policy is directly linked to the above Project components and operation of the powerhouse, dam and reservoir.

Article 3: Selection of Resettlement Areas

Based on the preferences of the reservoir population and in accordance to the Decree 193/PM of December 2000, three areas have been selected for resettlement:

- Area 1:* Near Ban Oudomsouk (Khammouane Province) covering an approximate area of 1,600 hectares.
- Area 2:* On the east of Ban Done and Ban Khone Khen, Nakai District (Khammouane Province), covering an approximate area of 10,300 hectares.
- Area 3:* On the west of Ban Nakai Tai and Ban Nakai Neua (Khammouane Province), covering an approximate area of 10,900 hectares.

Article 4: Compensation Policy

- 4.1 Compensation based on the principle of replacement cost will be provided for agricultural lands, gardens, building land, fruit trees, houses, schools, hospitals, dispensaries, temples, cemeteries, markets, buildings and any other assets and activities that will be affected.
- 4.2 The Project will provide housing and agricultural-forestry production land for each household in the reservoir area at the time of the population and assets survey. For any household not wishing to receive any such land or housing, the Project will pay cash compensation at replacement cost based on the local market value prevailing at the time.
- 4.3 Fruit trees shall be compensated according to the agreement between the concerned parties and/or locally prevailing market prices.
- 4.4 Schools, hospitals, dispensaries, markets, temples, clubs, cemeteries, roads and other constructions owned by the State and the village will be re-built by the Project or will be otherwise compensated for at their replacement cost.
- 4.5 The dismantling of old houses and construction cost of new replacement houses will be, jointly with the owners, determined by the Project and will be compensated. Transportation to the Resettlement Area (including wood prepared by the population) and labour and equipment provided by each family will be compensated. Each house may be designed by the population itself according to their preference. Moving of household goods including livestock will be arranged at no cost to the household.
- 4.6 Villagers resettling outside the Resettlement Areas (to other localities) will receive full compensation from the Project in one single payment for agricultural land, gardens, fruit trees, houses, building land and other losses and will be provided transportation to their destination. Any self-resettlement proposals must be reviewed for feasibility and approved by the Resettlement Committee before agreement to cash payment.
- 4.7 Food security will be provided to households until the Policy income target has been met, according to the Regulations.
- 4.8 All persons that sustain a loss under the Project will be entitled to adequate and prompt compensation or replacement of assets lost.

- 4.9 Under this policy, regulations will be made that classify those who are entitled to compensation and the level of compensation entitlement.
- 4.10 Households in the Project's Reservoir Area as of October-1998 will be entitled to compensation and have been registered, including those household of natural growth and household of any government employees who have been assigned to the area since the registration process.

Article 5: Other Provisions

- 5.1 The resettlement transition period (from relocation to self-sufficiency) will be minimized and adequate social, economic and environmental support will be provided during this period.
- 5.2 Those to be resettled will, as a matter of their preference, be relocated on the sites situated on the Nakai Plateau in areas as mentioned in Article 3. Those few households wishing to relocate off the Nakai Plateau will have that option and will be paid adequate compensation.
- 5.3 Villages will be resettled as villages and according to their traditional groupings; where two or more villages are to be combined in a new location, agreement of all concerned villages will be obtained. Living standard in the new villages must be better than before.
- 5.4 New villages will be provided with community infrastructure as specified in the Resettlement Action Plan.
- 5.5 Insofar as changes in household economic activities are proposed, the replacement opportunities will recognize the ability and interest of the persons affected; new activities will be introduced on a sound economic basis, with risks identified and understood.
- 5.6 All compensation, relocation and rehabilitation costs will be borne by the Project, with funds disbursed through an appropriate institutional structure.
- 5.7 All those affected by the Project will have the same basic rights, although entitlements may vary.
- 5.8 Proof of residency or traditional use from the Village administration is required to establish the right to compensation.
- 5.9 The allocation of farm/house lots will recognize family composition; households with large numbers of present or future labor-force members will be considered for allocation of plots that can accommodate larger or expanding households.
- 5.10 The socio-cultural composition of the affected villages will be recognized in the resettlement plans and their implementation. Special measures will be planned for vulnerable groups.
- 5.11 All affected persons will have effective access to grievance procedures that would deal with problems that may emerge at the household or village level.
- 5.12 The program of resettlement will be linked to the Project construction program; reservoir impoundment will not proceed until all affected persons have been relocated in accordance with the approved resettlement schedule.
- 5.13 Any host people affected by the resettlement program will be compensated according to the degree of the impact.

Article 6: Implementation

- 6.1 The NT2 Resettlement Committee will be responsible to carry out the effective implementation of the Resettlement Action Plan and for the coordination of the organizations involved; the Resettlement Committee will instruct the Resettlement Management Unit (RMU).
- 6.2 The NT2 Resettlement Committee and the Resettlement Management Unit (RMU) will prepare the Regulations under this policy.
- 6.3 The NT2 Resettlement Policy is to be recognized and assisted by Ministries, Organizations equivalent to Ministries, Committees and Rural Authorities for effective implementation.

Article 7: Validity

- 7.1 The policy replaces the NT2 Resettlement Policy No. 023/SPC, dates February 1998 and will be come effective on the date of signature entered upon.

3.5 RESETTLEMENT COMMITTEE REGULATIONS

While the NT2 Resettlement Policy (and more recently the Concession Agreement of 2002) is the overarching framework describing the resettlement principles, it specifies (article 6.2) that more specific regulations will be issued dealing with individual procedures for the successful implementation of the policy. It is the intention that, as detailed planning and implementation proceeds, additional Regulations under the Policy will be passed by the Resettlement Committee, at the recommendation of the Resettlement Management Unit and NTPC. Together, the Policy and Regulations will form the basis of

GOL authority under which resettlement and compensation take place. These regulations are executed by the provincial governor and therefore have the authority of a Provincial Decree.

The following Resettlement Committee regulations were issued prior to the signing of the Concession Agreement, and are now incorporated into the Concession Agreement.

- (a) **Resettlement Committee Regulation Number 1 - Eligibility**
Lists the categories of people eligible to receive entitlements and a process of updating the register of such people including due to natural growth of households. Further details of the eligibility of such people and hence the identity of those whom NTPC is obliged to consider is detailed in the Concession Agreement.
- (b) **Resettlement Committee Regulation Number 2 - Entitlements**
Lists the entitlements for items such as housing, cash, infrastructure and production assistance for the different categories of people listed in Regulation Number 1.
- (c) **Resettlement Committee Regulation Number 3 – Downstream Areas Impacts**
Describes the survey and monitoring work NTPC shall undertake one year prior to commercial operations and at approximately two and four years thereafter.

Resettlement Committee regulations drafted in 2004, as decisions of the Khammouane Provincial Governor who is chairman of the Resettlement Committee, include:

- **Agreement of the Provincial Governor (no. 726/PG.KM)** to change the census date of eligible plateau resettles, dated 27 October 2004 (Annex 3-3) ;
- **Regulations on land/assets registration and compensation, dated 15 September 2004;** and
- **Instructions (no. 257/PG.KM)** on Social Order Management and Small Trade during the NT 2 Project Construction Period, dated 26 November 2004 (Annex 3-2);

Also issued at Central level has been:

- **Prime Minister's Decision_No: 07/PM**, dated 22.01.2005, on Allocation of Use Right of Land to Nam Theun 2 Power Company Limited and Affected People of NT 2 Project (Annex 3-1).

Further Resettlement Committee (Provincial Governor) decisions have been enacted in early 2005, as follows:

- **Decision 171/PG(RCC).KM**, dated 7 March 2005, to "amend the regulation 484/PG.KM on the establishment and operation of Nakai plateau villager forestry Association of the NT2 Project, dated 13/6/2002". This amendment makes a few changes to the original Decisions 484, and adds two clauses granting the NPVFA (a) exemption from local taxes and levies, and (b) granting the NPVFA sawmill and logging licences (Annex 3-4).
- **Decision 85/PG (RCC).KM**, dated 9 Feb 2005, on "the Management and Use of the Resettlement Area-and the NT2 Reservoir on the Nakai Plateau for that is impacted by the NT 2 Project". This decision grants the Nakai Plateau Resettlers exclusive rights to all agricultural and forest resources in the Resettlement Area, and aquatic product resources on the Nam Theun 2 Reservoir. In the case of forest resources, this exclusive right is for a period of 70 years, after which a further granting of exclusive rights may be granted. In the case of reservoir fisheries, this exclusivity is for 10 years after COD, after which other parties may be granted right to a fisheries livelihood in the reservoir area as long as it does not impact on the Resettler fishers livelihood. (Annex 3-5)
- **Decision 96/PG(RCC).KM**, dated 10 Feb 2005, on "the Management, Use and Allocation of Land in the of the Resettlement Area" which specifies that any land claims or allocations must be in accordance with the Resettlement Area Land and Forest Use Plan.
- **Decision 84/PG(RCC).KM**, dated 9 Feb 2005, on "The establishment and operation of the Reservoir Management Coordination Office". This decision specifies that up until the end of the Resettlement Implementation Period, the GOL's RMU will be responsible for coordinating

reservoir management (without infringing on the Companies rights to water), and that after this period the RMCO would be established to be responsible.

3.6 THE CONCESSION AGREEMENT

3.6.1 Introduction

A review of the national legislation provides for the general rights of the resettlers and the obligations of the owner of a large hydropower project. However, the specific obligations of NTPC, and to some extent the GOL to satisfy these requirements is set out under the Concession Agreement (“**CA**”) that was signed on 3 October 2002 between NTPC and the GOL, represented by the Committee for Investment and Co-operation and acting for and on behalf of the Lao PDR. The CA has been approved by the National Assembly on 12 October 2002. As such the rights and obligations of the GOL and NTPC including in relation to social and resettlement issues are approved by the highest legislative body in Lao PDR. Indeed, it is the CA that requires the production and approval by the GOL of this Resettlement Action Plan (Clause 30.1).

Certain sections of this Concession Agreement, including Schedule 4, have undergone revisions, and these revisions to the Concession Agreement were approved in April 2005.

Under the CA, the GOL grants NTPC the right to implement the Project on a build, own, operate and transfer basis for a period of 25 years (the “**Concession Period**”) following the occurrence of the Commercial Operations Date, subject to any extensions for Force Majeure. The GOL and NTPC acknowledge that the Project will cause environmental and social impacts in the Lao PDR and that NTPC and, where applicable, the GOL will be responsible for addressing, alleviating and/or remedying such impacts.

There are two sections in the CA that deal specifically with the resettlement and compensation of the affected population, and sets out how the GOL and NTPC will comply with and implement the Nam Theun 2 Resettlement Policy in order to further the Project’s resettlement objectives. These are;

- Clause 30; and
- Schedule 4, Part 1 (Plateau and Project Lands) and Part 4 (Downstream Areas)

3.6.2 CA Clause 30: Environment and Social issues

This clause details, amongst other aspects;

- The companies and the GOLs representations and warranties, (for example, clause 30.1(b)(i), notes that the RAP has been developed to identify and address Project Impacts, while in clause 30.12,(b)(i) the company warrants that its obligations in respect of or under its Environmental and Social Objectives) (Schedule 4 Part 1 and 4) have adopted the findings and recommendations of the Plans (SDP). In case of inconsistency between the Social Objectives set out in the Concession Agreement and the provisions set out in the SDP, the Social Objectives shall prevail;

The environmental and social Objectives and the Company’s (and GOLs) Obligations to implement them;

- Securities and contingencies in case of failure of the company to implement, or the occurrence of unanticipated project impacts (Section 3.5.7 and Chapter 8);
- Responsibilities for UXO and obligations on termination; and
- Details of the roles, responsibilities, functions and reporting of the POE.

3.6.3 CA Schedule 4, Part 1 (Plateau and Project Lands)⁶

Part 1 of Schedule 4 details the Objectives and Provisions of Resettlement, and a general overview of the obligations and responsibilities of both NTPC and the GOL, the duration of these obligations and

⁶ a summary, and the full CA Schedule 4 Part 4, Downstream Areas, is presented in Volume 3, Chapter 3.

institutions within NTPC and the GOL who are responsible for the process. The monitoring of the resettlement process will be performed both internally by the Company and the GOL and also by independent parties. This schedule provides for the eligibility of the resettlers to the benefits NTPC will provide, with a population survey undertaken in October 1998, another in August 2003, and a final pre-relocation survey to be undertaken approximately within 3 months prior to relocation

The CA also provides a detailed description of the development of the villages in both the planning stage (including population and village location surveys and consultation and clearance of UXO) and the implementation stage (including land distribution and titling, relocation, construction and as described below the entitlements of the resettlers). There are a series of livelihood development programmes detailed in the CA both on a village and community basis (including for livestock improvement, agriculture and fisheries development and for the sustainable use of the community forest). Should problems arise and in accordance with Article 28 of the Constitution, the CA sets out a grievance procedure.

The CA revisions of April 2005 now include a detailed PAP Entitlements Matrix. There is also a summary of the funding budget for each program, and the funding arrangements for these activities.

3.6.4 Income Targets

The Resettlement Objectives (in relation to the Nakai Plateau Resettlement Project) to which GoL and NTPC agree to take steps to achieve include (Schedule 4, Part 1, Clause 3.1):

- (a) ensure that Resettlers have their income earning capacity enhanced and achieve the Household Income Target, with adequate support being provided by the parties during the Resettlement Implementation Period;
- (b) materially improve Resettler livelihoods on a sustainable basis.

In regard to Article (a) above, Clause 1.2 makes the following definitions:

"Household Income Target means the yearly target for the income of Resettler households, including income in cash and in kind, to be reached at the beginning of year 5 of the Resettlement Implementation Period, being for each Resettler household in the Resettlement Area, the greater of:

- (a) the then current National Rural Poverty Line, multiplied by the number of persons in the household; and*
- (b) Lao PDR Kip 1,420,800 per person, multiplied by the number of persons in the household (this being the equivalent to USD 800 per average household in June 2002, using the exchange rate of Lao PDR Kip 9,800 = USD 1 and average household size being 5.518 persons)."*

These "steps" (to be taken) as specified in Clause 3.1 and achievement of the targets will ensure that for the majority of Resettlers (90% in 1998) who are below the National Rural Poverty Line there will be an improvement of incomes (and livelihoods) at least up to the NRPL, whereas for the minority of relatively better-off villagers (those already above the NRPL - 10% in 1998) there will be at least a restoration in incomes and livelihoods⁷ to their current standards.

Clause 3.2 further states the various resettlement provisions agreed to by the parties, while Clause 3.4 (a) states that:

"The parties agree to use their best endeavours to facilitate:

- (a) the Resettler households reaching the Household Income Targets:
- (b) the Resettler villages reaching the Village Income Targets"

In regard to Article (b) above, Clause 1.2 Definitions makes the following definitions:

⁷ Livelihoods in this context is meant to include a combination of (i) incomes – both cash and imputed – (ii) holdings of lands, goods and chattels, and (iii) access to services such as domestic water, education health services, roads and electricity.

"Village Income Target means the yearly target for the income of Resettler villages, including income in cash and in kind, to be reached at the end of the Resettlement Implementation Period, being for each village in the Resettlement Area, the greater of:

- (a) the then current Average Rural Income Per Person, multiplied by the number of persons in the village; and
- (b) Lao PDR Kip 2,131,200 per person, multiplied by the number of persons in the village (this being the equivalent of USD 1200 per average household in June 2002, using the exchange rate of Lao PDR Kip 9,800 = USD 1 and the average household size being 5.518 persons)."

In the case of Project Affected Persons impacted by Project Lands, the CA specifies (Clause 3.4 (c)) that:

"The parties agree to use their best endeavours to facilitate:

Project Affected Persons in the Project Lands having their livelihoods restored on a sustainable basis as soon as possible and in any case no later than:

- (i) *five (5) years after a Project Affected Person's livelihood has been impacted, for those persons for whom restoration of their livelihood will depend on irrigation from Project facilities downstream of the Power Station; and*
- (ii) *eighteen (18) months for all other Project Affected Persons impacted by Project Lands.*

3.6.5 Entitlements

Schedule 4 Part 1 of the April 2005 revision of the CA provides specific details on the entitlement of PAPs in relation to:

- (a) Entitlements for Nakai Plateau Resettlers (PAPs affected by Reservoir Inundation, see Annex 3-6).
Part A: Compensation and Rehabilitation Measures
Part B: Schedule of Livelihood Operational Support Phase out
Part C: Health Entitlements
- (b) Entitlements for Project Lands PAPS (see Annex 3-7)

Schedule 4 Part 4 of the April 2005 revision of the CA provides specific details on the entitlement of PAPs in relation to impacts in the Downstream Areas (Annex 3-8).

3.6.6 Project Lands

The following provisions are specified in clause 10 of the Concession Agreement to guide the identification, handover (lease) to and use lands within the Lao PDR by the NTPC for the purposes of the Project.

- ***Lease of Project Lands:*** during the Concession Period the GOL will give the Company, free of charge, rights of access to, use and possession of designated Project Land. This will be affected by leasing arrangements – a Preliminary Site Lease (during the Preliminary Construction Phase) and a Site Lease (on and following the commencement of the Construction Phase).
The Project Land is leased by the GOL to the Company is to be sufficient to enable the Company to exercise its rights and perform its obligations under the Concession and the Concession Agreement.
- ***Categories of Project Land:*** there are ... 3 categories of Project Land to be leased by the GOL to the Company and these will be identified by the exclusivity of the occupancy rights granted to the Company. These categories include:
 - ❖ lands where the Company is to have exclusive occupancy rights (subject to specific rights of inspection to GOL and others) (***Category 1 Project Lands***), co-existent but dominant occupancy rights (***Category 2 Project Lands***) and co-existent but subservient occupancy rights (***Category 3 Project Lands***); and
 - ❖ are identified in Schedule 9 of the Concession Agreement by reference to Maps appearing as Annexure A (Preliminary Construction Phase Project Land Maps), B (Construction Phase

Project Land Maps) and C (Construction Period Project Land Maps) of the Concession Agreement.

- ***Compensation to be paid for existing improvements:*** the GOL is required to ensure that Project Land designated for the exclusive use by the Company (Category 1 Project Lands) must be free of use or habitation by others. However, the Company must compensate previous occupants for the value of their improvements to the Project Lands concerned. In order to ensure timely identification of the third party improvements on this land, the Company must, as a Condition Precedent, carry out a ***Baseline Study*** showing those improvements and setting out the proposed compensation to be paid by the Company to those persons affected by any demolition and removal of those improvements.

It is also a Condition Precedent that the GOL accept the findings of the Baseline Study.

- ***Land to be used for Project purposes only:*** the Company may only use the Project Lands for Project purposes and this right includes a limited right of logging and quarrying of the Project Land in accordance with the Procedures for Quarrying and Logging set out in Schedule 13 of the Concession Agreement. If that logging or quarrying is permitted under that Schedule 13 then the Company shall be entitled to derive profit from those activities but in respect of the sale of commercial timber and forestry products, the Company shall be required to pay the applicable royalty under the Forestry Law.
- ***Change of land use:*** the Company may request the GOL to authorize the use of Project Lands for additional purposes not related to the Project. The GOL has a wide discretion to reject any such request including if the lands concerned are not wholly Category 1 Project Lands (exclusive Company occupation in any event) or the additional purpose is inconsistent with the terms of the Concession Agreement.
- ***Additional Project Lands:*** the Company may request the GOL to grant it additional lands for use by the Company as Project Lands. The GOL has the discretion to reject any such request including if the GOL considers the request to be unreasonable due to likely or potential adverse environmental or social impacts.

Clause 13 of the revised Concession Agreement, Schedule 4 Part 1 provides a summary of the obligation of both parties in terms of survey and registration of impacts land and assets and livelihoods, and the timely provision of compensation and livelihood restoration for such impact.

3.6.7 Security

As security for NTPC's various resettlement obligations, NTPC must provide to the GOL a number of letters of credit.

- If the ***Company fails to comply*** with its environmental and resettlement obligations it must make certain payments to the GOL. An independent Panel of Experts will review compliance of NTPC and the GOL to the Social and Environmental obligations including completion of the resettlement obligations, thus the end of the Resettlement Period. These payments are secured from within 30 days of the construction phase commencement by a letter of credit of USD 2,500,000.
- NTPC warrants that the environmental and social objectives set out in the Concession Agreement are reasonably sufficient to mitigate against or compensate for the reasonably foreseeable project impacts. Nonetheless, NTPC also recognizes that there may be ***unanticipated project impacts*** and agrees to fund such additional costs to a limit of USD 10,000,000 and any amount received from environmental insurance proceeds. To secure its obligations in respect of the unanticipated project impacts NTPC agrees to put in place a letter of credit of USD 2,500,000 within 30 days of the construction phase commencement.
- Where the CA is terminated before the Commercial Operations Date (“**COD**”) and before the satisfaction of the various social obligations to be met by COD the Company must make certain payments to the GOL to ensure certain resettlement obligations are satisfied. Such sum secured by a letter of credit of USD 1,000,000. These **termination obligations** are further described in Appendix A-2.

Further explanation of the various project contingencies is provided in Volume 1 Chapter 8.

3.7 LEGAL FOUNDATION OF VILLAGE FORESTRY AT NAKAI PLATEAU

In order to implement the NT2 Resettlement Policy the resettlers must benefit from sustainable use of the land and resources, especially the forestry and fisheries resources. The sustainable exploitation of the land for agriculture is performed within the areas allotted to each household. However, with regard to forestry and fisheries the resettlers must be organised to use and benefit from those resources collectively, so that benefits from the resource endowment are shared equally amongst all those to be relocated. The legal and regulatory framework for such collective forest resource use is tabulated in Table 3-2.

Table 3-2: Legislation Relevant to Village Rights in the Forestry Sector

DOCUMENT	DATE	ISSUING BODY
Laws		
• Forestry Law	11/11/1996	National Assembly
• Land Law	Amended	National Assembly
• Environmental Protection Law	26 April 1999	National Assembly
Decrees		
• PM Decree 102: Organization and Administration of Villages	5 July 1993	Prime Minister
• PM Decree 59: Sustainable Forest Management of Production Forest Areas	22 May 2002	Prime Minister
• PM Inst. 3: Expansion of Land Management & Land and Forest Allocation	25 June 1996	Prime Minister
Regulations		
• MAF Reg 196 on promotion of sustainable tree planting	15 Aug. 2000	Minister of MAF
• MAF Regulation 535: Management of Village Forests	18 June 2001	Minister of MAF
• MAF Order 54: Customary Rights and Use of Forest Resources	7 March 1996	Minister of MAF
• MAF Instruction 377: Customary Use of Forest Resources	17 April 1996	Minister of MAF
• MAF Instruction 822: on Land-Forest Allocation for Management & Use	2 Aug. 1996	Minister of MAF

3.7.1 Background on Policy and Village Forestry Use and Rights

Villages in Lao PDR have historically and in most cases continue to practice traditional methods of forest tenure, use and management despite a government management system and legislation. After the formation of Lao PDR in 1975, the forest resources became the property of the national community to be managed by the State. A system was established to conduct forest management activities through 9 State Forest Enterprises (“SFE”) whereby the role of villagers was limited to labour with minimal benefits. SFEs were abolished in the late 1980s (PM Decree 117) and forest management was turned over to the provinces, and the harvest of forest products to private enterprises and three SOEs⁸.

The recognition to increase the role of villages in forest management has emerged over the past decade, especially since poverty alleviation and the reduction of natural forest degradation have become higher policy goals of the GOL and international donor community. Through the Forest and Land Use and Planning process, the GOL has attempted to identify village boundaries and define forest use and protection zones within village boundaries under forest management agreements. Securing temporary tenure and management rights over forest areas has been a positive step, but the process has been inconsistently implemented with inadequate training to district staff or benefits to the villages.

The GOL has supported various models of community forestry in pilot projects in over 75 villages (FOMACOP, LSFP-JFM, JICA). These projects promoted formal village involvement in co-management or participatory management of forestry activities, including customary rights and commercial timber production, under long-term lease agreement between village associations and the government.

3.7.2 National Legal Framework

The Forestry Law (1996) recognizes the village as the grass-roots level of a four-tiered forestry administration that includes the national, provincial, district, and village levels. The law states that village

⁸ Agricultural Development Services Group (ADS), Bolisat Phathana Khet Phoudoi (BPKP or Phoudoi), and Development, Agriculture Forestry Industry Group (DAFI) are all under the Ministry of Defense.

authorities have the right and duty to develop specific regulations that are “appropriate to the actual conditions of the village” (Item 6, Article 63). This is further implemented and clarified through PM Decrees 59 and 102 (Appendices C4.2 and C8). PM Decree 102 (1993) recognizes village administration as a formal level of the government with rights and duties to implement policies at the village level.

Decree No. 59/2002/PM, implementing the Forestry Law in Production Forest Areas (PFA) states that “Village Forestry Associations (“VFA’s”) shall organize the villagers’ participation to implement all sustainable production forest management activities within the scope of their capacity with FMUs under outlined instructions and regulations”. Such activities include demarcation, land-use planning, pre-harvest inventories and tree marking, management planning, monitoring and control, harvesting activities, log sales and receipt of revenues and other development activities consistent with forest management agreements and plans” (Article 8.4). While the Resettlement Area has not been specifically declared as a PFA at this time, the scope of PM Decree 59 and its implementing regulation issued by MAF in 2003 will cover production forestry in the Nakai Plateau.

3.7.3 Legislation Enacted Specifically for NT2 Resettler Forestry

The following specifically provides a legal framework for the management of the forests in the Resettlement Area by the Nakai Plateau Village Forestry Association (“NPVFA”) (see Appendix D):

Decree No. 193/PM of 29 December 2000 establishing the Nakai-Nam Theun NBCA Corridor Areas, the reservoir area, and the Resettlement and Forest Area for the affected people.

Decree No. 37/PM of 12 April 2002 approving the allocation of the Resettlement and Forest Area to the affected people for carrying out forest business activities as a compensation and rehabilitation measure.

These two PM Decrees set out the rights of the resettlers to the area in which they are to be resettled. It is on this foundation, that the organization the resettlers sustainable exploitation of the forest is based.

Authorization No. 63/MAF of 29 April 2002 authorizing the Khammouane Governor to issue regulations on the establishment and conduct of operations of a NPVFA which will manage the forest resources allocated to the resettlers.

Regulation No. 484/KM.GOV of 13 June 2002 establishing the NPVFA whose objectives include management and use of the forest so that the become one of the permanent bases of their livelihood and providing a set of guidelines for its function, rights, management and operations.

In accordance with the “Regulation on the establishment and management of Nakai Plateau Village Forestry Association “No.484/KM.GOV, the NPVFA is created as a legal corporate entity (Article 3) whose functions include the payment of tax and other duties to the government (Article 4) and to distribute net profits to the members on a regular basis (Article 5). As such this Association is a profit making organization to be registered with the Ministry of Commerce in the same manner as a corporate identity and will pay tax on its profits and dividends in accordance with the Tax Law No. 04/95/NA, dated 14 October 1995 as amended. The functions of the association under Article 4 include (i) development of sources of income necessary for the improvement of the living conditions of the members of the association (ii) sharing the cost and benefits to the members equitably, and (iii) establishing a social fund for support of vulnerable households.

In early 2005 the RMU has drafted and the Khammouane Provincial Governor has enacted two more decisions which will have direct relevance to community forestry on the Nakai plateau, as follows:

Decision 171/PG(RCC).KM, dated 7 March 2005, to "amend the regulation 484/PG.KM on the establishment and operation of Nakai plateau villager forestry Association of the NT2 Project, dated 13/6/2002". This amendment makes a few small changes to the original Decisions 484, and adds two clauses granting the NPVFA (a) exemption from local taxes and levies and (b) granting the NPVFA sawmill and logging licences.

Decision 85/PG(RCC).KM, dated 9 Feb 2005, on "the Management and Use of the Resettlement Area and the NT2 Reservoir on the Nakai Plateau for that is impacted by the NT 2 Project". This decision grants the Nakai plateau Resettlers exclusive rights to all the forest resources in the Resettlement Area for a period of 70 years, after which a further granting of exclusive rights may be granted.

3.7.4 NPVFA Articles of Association (Regulations)

As part of organizing the NPVFA, an Articles of Association (termed 'regulations' in the Lao language document) have been drafted with the participation of DAFO, PAFO, the Khammouane Provincial Administration and future members of the NPVFA. These articles set out the rights and obligations of the association for the use of the forestry resources in line with Authorization no. 63 and Regulation 484 above. The articles were executed 25/11/2003 by the Governor of the Provincial Administration, thereby finalizing the process of GOL's approval and authorization.

The main objectives of the association are:

- To gather the resettlers together to enhance their solidarity and create favourable conditions for improving their living standard
- To raise awareness on the collective forestry rights of the resettled villagers and
- To manage and use the forests effectively and sustainably so that they become the permanent base of their livelihood

The articles include the duties and rights of villagers required under PM Decree 59 and MAF implementing regulation to cover all aspects of forest management rather than the village role merely being a labor force as outlined in MAF Regulation 535 and PM Orders 10 and 15. Specifically, NPVFA will have the sole rights to harvest and sell timber and NTFP from the allocated forest, provided this is done in a sustainable manner. Sustainable forest management is the main obligation of NPVFA, which will be undertaken by carrying out planning, forest management (including forest regeneration and stand improvement), protection, and conservation activities including patrolling and reporting illegal logging to DAFO.

However, to legally conduct forestry businesses, according to MAF Regulations 261, 267 and 275 (all issued in 2000) and the Instructions of the Department of Forestry (January 2001), the NPVFA must also apply for and be issued three business licenses, as follows:

1. a logging license;
2. a sawmilling license; and
3. a wood processing and furniture factory license.

A Forest Management Contract or Lease Agreement may also be entered into by the NPVFA, DAFO, PAFO and the Khammouane Provincial Administration to confirm the NPVFA's right to what continues to be state land. Under Article 13 of the Land Law the State permits the grant of lease for up to 30 years for state property, although Article 65 notes that for special economic zones a lease of up to 75 years may be granted.

3.8 RESERVOIR MANAGEMENT

The GoL has decided that the most effective institutional arrangement for the coordination of the management of the future Nakai Reservoir will be to establish a Reservoir Management Coordinating Office under the RMU, up until COD, after which time a separate office or Authority will be established. This objective of this office is to ensure:

- (a) the balanced development and management of the reservoir and its resources, with a view to ensuring that activities of the priority stakeholders, the Nakai plateau resettlers, are secured; and
- (b) that the various stakeholders and users of the reservoir - the NTPC, plateau resettler fishers, the WMPA and Watershed residents, tourism authorities etc - are coordinated in their activities and that informed is shared as appropriate.

3.9 LAND, FISHERIES AND FOREST RESOURCE ACCESS

The GoL has strengthened the previous PM Decree's 193 and 37, by the issuance of **Decision 85/PG(RCC).KM**, dated 9 Feb 2005, on "the Management and Use of the Resettlement Area-and the NT2 Reservoir on the Nakai Plateau for that is impacted by the NT 2 Project" (Annex 3-5).

This decision grants the Nakai plateau Resettlers exclusive rights to all agricultural and forest resources in the Resettlement Area, and aquatic product resources on the Nam Theun 2 Reservoir. In the case of forest resources, this exclusive rights is for a period of 70 years, after which a further granting of exclusive rights may be granted, In the case of reservoir fisheries, this exclusivity is for 10 years after COD, after which other parties may be granted right to a fisheries livelihood in the reservoir area as long as it does not impact on the Resettler fishers livelihood.

This decision will ensure that;

- (a) the forest resources in the Resettlement Area are for the exclusive use and benefit of the plateau resettlers only;
- (b) the allocation and use land in the Resettlement Area is undertaken within framework that resettlers have the primary right to land use, both currently and in the future;
- (c) land titles will be issued for all housing and permanent agricultural land within one year of actually relocating, building new houses or opening and planting the first crop on the agriculture land, and in the joint name of husband and wife.
- (e) the trading in the reservoir fisheries resources is to be conducted only by the authorized reservoir fishers (the plateau resettlers, reservoir area fishers, and their descendents).

However, this issue of protection of the Resettlers from inappropriate sale of the land titles is still unresolved. One proposal is to issue the titles with a caveat prohibiting the sale of land within the 8 to 9 year Resettlement Implementation Period, unless otherwise adjudicated by the Grievance Committee. On the other hand, such a caveat may be seen to limit the rights of the holder of a land title which is issued in order to provide the rights to the title holder.

3.10 THE NT2 PROJECT IN RELATION TO WORLD BANK AND ADB SAFEGUARD POLICIES

The NT2 Resettlement Policy details guiding objectives, principles and provisions under which resettlement is carried out. This NT2 Policy, and the Social Development Plan which has been drafted over many years, aims to follow the principles of the three applicable ('triggered') World Bank Policies:

- Operational Policy 4.12: Involuntary Resettlement.
- Operational Directive 4.20: Indigenous People.
- Operational Policy 4.11: Cultural Property.

More recently, the Asian Development Bank has also become a partner in the NT2 Project, and thus the ADB safeguards policies are also relevant to the social and resettlement program of the NT2 Project, including:

- ADB Policy On Involuntary Resettlement (1995) and Operations Manual(OM) F2
- ADB Policy on Indigenous Peoples(1998) and OM F3
- ADB Policy on Gender and Development (1998) and OM C2

NTPC and GOL are fully committed to comply with these World Bank and Asian Development Bank requirements and policies for indigenous peoples, involuntary resettlement, cultural property and gender and development.

These policies are set out in full in Appendix B.

3.10.1 WB OP 4.12: Involuntary Resettlement

The fundamental objective of Bank policy on resettlement as stated in OP 4.12 is to assure that development projects which must displace people also benefit them. To recall this overall objective,

affected persons should be consulted from the beginning and special attention should be paid to socially or economically disadvantaged people. The NT2 policy states that the people affected by the Project should after relocation be better off than before. The resettlement plan is designed to achieve this. Policy objectives of the WB that have been applied to the SDP include:

- Involuntary resettlement has been avoided when feasible or minimized, exploring all viable project designs (2a)
- When resettlement is unavoidable, activities have been planned as “sustainable development programmes” that provide sufficient resources and opportunities to enable displaced persons to share the benefits of the project (2b).
- Ample assistance will be provided to displaced persons in order to improve their livelihoods and standards of living (2c)
- WB Safeguard Policy on Involuntary Resettlement is applicable due to loss of structure, land and livelihood of affected persons resided in the proposed reservoir or impacted directly by project activities (3a). In addition, there is “restricted access” to the NBCA to the north and east of the proposed reservoir, impacting the livelihoods of the displaced persons (3b). The proposed livelihood model that is explained in detail in Chapters 12-16 takes into account that resettlers will not have access or be reliant to resources in the NBCA.

The SDP also follows the measures outlined in Section 6 of OP 4.12:

- Displaced persons have been “informed about their options and rights”, “consulted on, offered choices among and provided with technically and economically feasible resettlement alternatives” and will be “provided with prompt and effective compensation” in the form of new livelihood system that will significantly exceed the value of their existing livelihood systems in terms of economic return and “at replacement cost for selected assets” (6a, i-iii).
- Assistance will be provided during relocation that exceeds moving allowances and housing; housing sites and agricultural land will be developed in co-operation with displaced persons; labour inputs and consultations on site preparations will take place in advance of the relocation (6b, i-ii).
- The SDP outlines a plan for “support after displacement, for the transition period, based on a reasonable estimate of time likely to be needed to restore their livelihood and standards of living” by establishing two targets to bring all households to the Lao rural poverty line four years after relocation and all villages to the national rural income level upon completion of the resettlement process (cf. Section 8.9.2).

The SDP covers all the elements of a SDP as prescribed in Annex A of OP 4.12, including a specific Resettlement Policy for the Project approved by GOL.

3.10.2 WB OD 4.20 Indigenous People

The WB's Safeguard Policy OD 4.20 is addressed in detail in the Ethnic Minorities Development Plan (EMDP) for the NT2 Project Area. The findings and recommendations of the EMDP have been incorporated into the SDP and are consistent with its policies and planned activities.

Indigenous peoples and ethnic minorities commonly have little voice in development decision making. Moreover, exploitation of their fragile resource base has largely profited others. Given that the reservoir population is made up of ethnic minorities, this SDP shows that they have had a voice in decision making and that development plans have been designed to respect their rights and reflect their cultural practices and traditions.

OD 4.20 sets out the prerequisites for culturally appropriate planning for development, including for resettlement as development. These include assuring that project staff (private and government) are familiar with the social, technical and legal aspects of proposed development activities; recognising traditional organisational structures, religious beliefs and resource use; using appropriate consultation methods that take advantage of local knowledge; focusing on production systems that suit the people's needs and environment; and avoiding increased dependency on project or government agencies by incorporating capacity building. The SDP follows these guidelines.

Households that currently live on the Nakai Plateau can be classified as indigenous people or ethnic minorities and have strong cultural ties to the area. All are sharing a common livelihood system. The focus on vulnerable groups needs to be on older people and others that may be disadvantaged, such as single parents.

The SDP has approached the indigenous peoples issue by planning that all proposed activities be "culturally appropriate development" and by giving specific consideration to the 'local patterns of social organization, religious beliefs and resource use' in the design of the plan's associated livelihood proposals. The plan also specifically aims at avoiding the creation of dependency and promotes self-management on the part of the resettlers.

3.10.3 WB OP 4.11: Cultural Property

Operational Policy OP 4.11 - Cultural Property - covers archaeological, historical, cultural, religious and natural values (environmental features). Studies that have been carried out previously in the project area have not revealed any significant loss of cultural property. However, a future more detailed study is now underway, and due to be complete by mid 2004 (see the EAMP) while provisions have been made however for "chance finds", in co-operation with concerned GOL agencies as outlined in the EAMP.

3.10.4 ADB's Policy on Gender and Development

ADB's OM F2/OP requires that the findings of a gender analysis be included in the resettlement plan.. The Policy requires:

- Gender sensitivity to observe how the project impacts women and men differently and to take account of their different needs and perspectives in resettlement planning;
- Gender analysis which refers to the systematic assessment of the project impact on men and women and on their economic and social relationships;
- Gender planning which refers to the formulation of specific strategies to bring about equal opportunities to men and women.

Thus, the SDP has adopted gender "mainstreaming" as a key strategy for promoting gender equity. This entails ensuring the consideration of gender issues at all stages of the project and that women participate in the decision-making processes. A preliminary gender analysis was conducted for the Nakai Plateau and the Xe Bangfai in June 2004, and a strategy and a Gender Action Plan incorporated into the SDP in December 2004. This gender analysis and improvements to the strategy will ensure the following specific activities:

- Inclusion of gender sensitivity and capacity building for all stakeholders involved in the detailed design, implementation and monitoring and evaluation;
- Inclusion of gender balance targets (GBTs) for all staffing and training of SDP support institutions;
- Separate components for encouraging women's participation and decision-making; including setting GBTs within community planning and institution building.
- Integration of gender into livelihood planning and implementation, monitoring and evaluation, and all training programs
- Gender specific interventions such as targeting health programs, family planning, HIV-AIDS awareness, education, literacy, livelihood technical training and land titling and land use rights to both men and women
- Specific actions to address women's security and health in areas of heavy concentration of external workers and camp followers.

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Annex 3-1: PM Decision 07/PM on Allocation of Use Right to NTPC and Affected People of NT2 Project.

LAO PEOPLE’S DEMOCRATIC REPUBLIC

PEACE INDEPENDENCE DEMOCRACY UNITY PROSPERITY

=====000=====

Prime Minister’s Office

No.: 07/PM
Vientiane Capital, date 22.01.2005

PRIME MINISTER’S DECISION

ON

ALLOCATION OF USE RIGHT OF LAND TO NAM THEUN 2 POWER COMPANY LIMITED AND AFFECTED PEOPLE OF NAM THEUN 2 PROJECT

- Based on Government Law of Lao PDR;
- Based on Land Law, No.04/NA, dated 21 October 2003;
- Based on National Assembly Resolution No.76/NA, dated 12 October 2002 concerning the concession approval to Nam Theun 2 Power Company Limited;
- Based on Prime Minister’s Decree of 29 December 2000 and additional Decree No.37/PM, dated 12 April 2002;
- Based on Nam Theun 2 Project Concession Agreement between the Government of Lao PDR and Nam Theun 2 Power Company Limited, dated 30 October 2002;
- Based on the Minister of Industry and Handicraft proposal, No.657/IH, dated 3 December 2004.

Prime Minister Decides to:

Article 1: Assign the Governor of Khammouane Province, the Governor of Savannakhet Province and the Governor of Bolikhamxay Province to allocate the Use Right of Land to Nam Theun 2 Power Company Limited, with time limit; allocate the Use Right of Land to household within the Resettlement Area and the Project Construction Land Area which is permanently affected; allocate the Use Right of Land to affected state organizations and communities within the whole Concession Area by issuing the Land Title or Land Map or Land Certificate.

Article 2: Approve the utilization of various Project Land Areas specified as Construction Site as the following:

2.1 Land used for Construction Site and permanent use consist of: Nakai Dam, 13 Saddle Dams, Power Station, Regulating Pond, Regulating Dam, Downstream Channel from Gnommalat Power Station to Xe Bangfai River and Residence Nam Theun. These various sites will be allocated by the Local Administrative Authority through the issuance of land Title or Land Map or Land Certificate as Land under State Management.

2.2 Other Land outside the clause (2.1) is also allocated to Nam Theun 2 Power Company Limited to use during the construction period due to the necessity. If the land and asset of the population are affected, then the compensation will be applied or/and allocate new area in accordance with the Nam Theun 2 Project Resettlement Plan which is approved by the Government. For the allocation of new land to the population, the Local Administrative Authority will issue the Land Title or Land Map or Land Certificate fully to the Use Right owner.

2.3 Land along the 500 kV and 115 kV transmission line, during the construction period, the Local Administrative Authority where the Land Area is located will issue the authorization to Nam Theun 2 Power Company Limited to use provisory these lands. If

there is any production facility of the population and organization affected, then the Nam Theun 2 Power Company Limited will be responsible to compensate the damage to the concerned people and perform in conformity with Government Policy and Law.

2.4 In case the Nam Theun 2 Power Company Limited require necessary land outside the Concession Area, the involved Local Administrative Authority will consider the approval; then report officially to the Government for acknowledgement.

Article 3: Allow the Nam Theun 2 Project Resettlement Committee to cooperate with the Provincial Administrative Authorities of Khammouane, Savannakhet, Bolikhamxay and Nam Theun 2 Power Company Limited to conduct the survey and record the Assets and Area development situation in order to evaluate the actual compensation to the damage. In fact, the Resettlement Committee shall perform in compliance with the regulation on Inventory and Compensation No.0185/PG.K, dated 15 September 2004 and Government policy and Law.

In addition, plan and implementation of public information shall be performed in order to obtain from the affected population firm understanding of the situation and necessity then their active participation.

Article 4: Allow the Nam Theun 2 Project Resettlement Committee, the Governor of Khammouane, Savannakhet and Bolikhamxay Province to strictly implement this Decision; Ministries, equivalent organizations and other concerned parties to acknowledge, cooperate and effectively implement this Decision.

Article 5: This Decision is effective from the date of the signature.

Prime Minister

Boun Gngang VORACHIT

Annex 3-2: Instructions of President of RC 257/RC.KM on Social Order Management and Small Trade during the Nam Theun 2 Project Construction Period.

**LAO PEOPLE’S DEMOCRATIC REPUBLIC
PEACE INDEPENDENCE DEMOCRACY UNITY PROSPERITY**

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Khammouane Province
Resettlement Committee

No.: 257/RC.KM
Date: 26 November 2004

**INSTRUCTIONS OF PRESIDENT OF RESETTLEMENT COMMITTEE ON
SOCIAL ORDER MANAGEMENT AND SMALL TRADE DURING
THE NAM THEUN 2 PROJECT CONSTRUCTION PERIOD**

Reference to:

- Lao PDR constitution 1991,
- Local Administration Law,
- Prime Minister Decision No.64/PM, dated 14.11.1998, on Nam Theun 2 Project Resettlement Committee Nomination,
- Concession Agreement, dated 3/10/2002, between Lao PDR Government and Nam Theun 2 Power Company Ltd.,
- Nam Theun 2 Project Resettlement Plan approved by the Lao PDR Government, No. 1550/PMO, dated 8/9/99.
- Actual Requirement in terms of management, service supply and population control during the Nam Theun 2 Project construction period,

President of Resettlement Committee instructs:

PART I: GENERAL OBJECTIVE

1. Social order management and service supply during Nam Theun 2 Project construction period

- 1.1 This Instruction forms as base for the Province District, Village, Worker’s Camp and involved persons in terms of rule elaboration for social management and service supply during Nam Theun 2 Project construction period.
- 1.2 To control the various groups and local population entry conformity with the Laws.
- 1.3 To maintain the social order in the worker’s camps, the villages and project’s areas.
- 1.4 To preserve good local and national traditions in a sustainable manner.
- 1.5 To protect national, local and individual interest in conformity with rules and laws.
- 1.6 To protect national natural environment avoiding short and long term destruction and pollution against human and animal life.

2. Project Areas

2.1 Khammouane Province

- **Nakai District:** Nam Theun 2 reservoir area consisting of 17 villages to be resettled, new relocated villages (including Ban Oudomsouk and Ban Phon Phan Pek), worker’s camps, various state and company offices.

- **Gnommalath District:** Power house area, regulating weir and pond, channel area, transmission line along Road 8B area, access roads, worker’s camps, villages, state and private offices.
- **Mahaxay District:** Transmission line, channel, along road No. 8B and access roads areas, worker’s camps, villages and offices.
- **Xe Bangfai District:** High voltage transmission line, along Road No. 13 and villages on the Xe Bangfai river bank.

2.2 *Savannakhet Province*

- **Saybouly District:** High voltage transmission line, along Road No. 13 and villages on the Xe Bangfai river bank.
- **Khanthabouly District:** Substation area and high voltage transmission line.

2.3 *Bolikhamsay Province*

- **Khamkeut District:** Phouphaphen area, new village relocation of Ban Sop Hia/Nam Niane, worker’s camps area, along Road No. 8B, along access road to Keng Mone and Nakai Dam area and other areas according to Concession Agreement.

3. **Target Groups**

Local and foreign groups involving with NT 2 Project are divided into 6 categories:

- 3.1 Staffs and workers of the Project
- 3.2 Accompanied persons
- 3.3 People coming for service supply
- 3.4 Officials, staffs and workers not directly working with the project
- 3.5 Tourist and other visitor
- 3.6 Local staff and population

4. **Number of target people**

It is estimated there will be regular movement of people during the project construction:

4.1 Staffs and workers	8,000 persons
4.2 Accompanied persons	16,000 persons
4.3 Service supply people	2,000 persons
4.4 Official and indirect staffs	2,000 persons
4.5 Tourist and other visitor	1,000 persons
4.6 Local staff and population (7 districts)	155,000 persons
TOTAL =	184,000 persons

PART 2: MANAGEMENT

5. **Management Method**

5.1 *In and Out population movement*

In and Out movement of each office, camp and village staff/worker shall comply with Administration Law means every person possesses identity card, family certificate, passport or other referred paper.

- Various office and worker’s camp issue their card to all members. In case of relative or visitor for more than 3 months period the office or camp should also provide the card indicating clearly the visit time limit.

- The resettler shall have the family certificate and resettlement certificate approved by the village authority according to the rule.
- The provisory resettler or person coming for provisory service supply shall have the provisory resettlement certificate from his permanent residence village according to the rules.

5.2 Activity Management

- 5.2.1 Individual or committee wishing to establish agent or office shall have the administrative approval prior any action. Land for agent or office building construction shall have full set of documents such as: allocation certificate lease agreement, ownership transfer certificate (purchase/order document) and damage compensation notice for project construction according to Concession Agreement.
- 5.2.2 Any construction should be consistent with the Nam Theun 2 Project.
- 5.2.3 Village administrative authority, office, worker's camp are responsible of their member's activity according to the existing rules.
- 5.2.4 In respect of specific and location of Nam Theun 2 Project, it is recommended to District to elaborate the rules for management of public order within their own District and to worker's camp to have their own interior rules for proper control and inspection, the village also should improve the village rules accordingly.
- 5.2.5 All vehicle including the motorcycle shall have full set of papers such as: license, road fee, technical check, etc.
- 5.2.6 All driver has the driving license, it is prohibited for children under allowed age to drive vehicle on national road.

5.3 Behaviour and service management

- 5.3.1 Administrative authority, office, worker's camp and work site shall manage the various behaviour under their responsibility such as: illegal meeting, gambling, scuffle, drinking abuse, disturbing noise, sexual abuse, environment, erotic photos and CD, drug, illegal arm, wild animal environment etc.
- 5.3.2 The District shall provide service area and facilities such as:
- Market area, fresh food near the public community, close the bus station or port and access roads.
 - Restaurant area at least 1km far from the school, hospital, office/camp.
 - Workers' camp should have canteen and shop.
 - Shop and restaurant shall comply strictly with the provincial notice.
 - Provision of waste disposal far from the community.
- 5.3.3 All shop shall have business and tax license hanged at a visible place.
- 5.3.4 Individual or community wishing to establish a new business should apply to the relevant license authority according to the regulation.
- 5.3.5 In and Out goods, merchandises of Agent, office, and shops in line with allocation. If not punishment will be applied according to the Laws.
- 5.3.6 Shops shall pay obligations to the state according to the regulations.

5.4 Health and Sanitation Management

- 5.4.1 All office, bureau, worker's camp shall take care of sanitation of their responsible area in a proper and clean manner in order to protect the environment in a sustainable manner.
- 5.4.2 District and village shall provide solid waste disposal area, issue instruction on waste management. If possible may be establish a group of contractor for the solid waste service.
- 5.4.3 Office, bureau and camp shall have recreative area, sport area if possible.
- 5.4.4 Office, bureau, worker's camp and shop shall have the toilet at a basic standard and safe.

- 5.4.5 Every office shall have a health service unit as following:
- At district level, the dispensary.
 - At office or camp level with more 500 persons the health service unit.
 - At office or camp level with less 500 persons, the necessary basic medical service for emergency need.
- 5.4.6 Food cooking and service should assure consumer's health and subject to intermittent inspection.

PART 3: IMPLEMENTATION

6. Organization

- 6.1 At relevant provincial and district level the task force committee shall be established, composing of: commerce/custom, security, defense, health and other necessary organization, to monitor the activities of office, bureau, camp and shop in line with rules and regulations.
- 6.2 The above said committee shall elaborate control and inspection plan to be submitted to the Governor of the Province for approval.
- 6.3 Monitoring operation implementation:
- Provincial level every 6 months.
 - District level, every month.
 - Village level, every week.
 - District and village can inspect any time in case of necessity.

Every month end the Governor of Province has the right to organize the meeting to approve the report and plan of operation to improve the efficiency of the implementation activities.

7. Public Consultation and Information

The District shall disseminate effectively laws and regulations on social and service management, including official notice and poster at the public place, office, camp, shop and target groups.

PART 4: EFFECTIVENESS

8. All various services of 3 Provinces, Districts, Villages

Villagers and concerned organizations shall acknowledge and implement properly. These instructions become effective from the date of the signature.

Governor of Khammouane Province

President Resettlement Committee

Signed and sealed

Khambay Damlat

Annex 3-3: Decision 0726/G.KM of Khammouane Province Governor on Changing of the Due Date and Number of Resettlers.

**LAO PEOPLE’S DEMOCRATIC REPUBLIC
PEACE INDEPENDENCE DEMOCRACY UNITY PROSPERITY
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Khammouane Province
Resettlement Committee
Nam Theun 2 Project

No: 0726/PG. KM
Date: 27 Oct 2004

Decision

**of Khammouane Province Governor
Resettlement Committee Chairman of Nam Theun 2 Project
Changing of the due date and number of resettlers**

- According to decision of Prime Minister No: 64/PM, date 14/11/1998 on establishment of the Resettlement Committee
- According to Nam Theun 2 Concession Agreement, dates 3/10/2002
- According to Social Development Plan was accepted by state of Lao PDR, No: 1550/ PMF date: 8/9/1999

**Khammouane Province Governor
Resettlement Committee Chairman of Nam Theun 2 Project Decides:**

Clause 1: Changing of the due date and data

- 1.1 Changing of the due date to social economic survey of project impact on date 1 October 1998 to 21 June 2003
- 1.2 Changing of social economic data project impact, from the data on date 1 October 1998 to be the date 21 June 2003 so agreed to get the base data on 1 October 1998

Clause 2: Operation

- 2.1 Prior to resettle of each villages at least 30 days must to need last survey and close and accept only population in data on 2003 plus number of natural extension and government staff who were officially assigned to in district
- 2.2 Resettlement Management Unit, Social Resettlement Office, Nakai District Working Group, Khamkeut District Working Group and every part have to know and strict on operation
- 2.3 Good keeping of the resettlers list kept in Resettlement Management Office, one set keep in Village Office include stick on announcement board

Clause 3: Resultant

- 3.1 This Decision be able to use on signed date

Khammouane Province
NT 2 Project, Resettlement Committee

KHAMBAI DAMLATH

Annex 3-4: Decision 171/PG.KM to amend Regulation 484/KM.GOV on the Establishment and Operation of Nakai Village Forestry Association.

LAO PEOPLE’S DEMOCRATIC REPUBLIC
PEACE INDEPENDENCE DEMOCRACY UNITY PROSPERITY
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Khammouane Province

No.: 171/PG.KM
Date: 7 March 2005

DECISION
to AMEND REGULATION 484/KM.GOV
ON THE ESTABLISHMENT AND OPERATION OF NAKAI PLATEAU VILLAGE
FORESTRY ASSOCIATION
of the NT2 PROJECT, dated 13/6/2002

Reference is made to:

- The Constitution of the Lao People’s Democratic Republic 1991
- The Forestry Law No. 196 dated 11/10/1996
- The Decision of the Prime Minister No. 64/PM dated 14/11/1998 on the establishment of the Resettlement Committee of people of the NT2 Project
- The Decree of the Prime Minister No. 193/PM dated 29/12/2000 regarding the establishment of the NNT NPA, the corridor area, the Reservoir Area of the NT2 Project and the Resettlement and Forest Area for the villagers impacted by the NT2 Project.
- The Decree of the Prime Minister No. 37/PM dated 12/04/2002, regarding the approval of villagers of village administration in the Resettlement Area and Villagers Forest, who are impacted by the NT2 Project to conduct forestry business. .
- The Notice of the Ministry of Agriculture and Forestry No. 63/MAF dated 29/04/2002, regarding transfer of rights to the Province to approve and direct the establishment of the NPVFA NT2 Project.
- The Regulation 484/PG.KM dated 13/6/2002 on the Establishment and Operation of Nakai Plateau Village Forestry Association (“Regulation 484”)

The Provincial Governor, Chairman of the Resettlement Committee agrees to amend Regulation No. 484/PG.KM, dated 13/6/2002 as follows:

PART 1 General Provisions

Article 1: Regarding the name and date of establishment of the Association

- 1.1: The official name of the forestry association is the Nakai Plateau Village Forestry Association, and in short NPVFA ("SPN" in Lao)
- 1.2: The NPVFA is hereby fully established in perpetuity.

PART V
Regarding Provision of Direction and Facilitation

Article 22: The Governor of Khammouane Province has the duty to be responsible for directing and monitoring the operation of the Association, through the Provincial Agriculture and Forestry Office.

Article 23: The Provincial Agriculture and Forestry Office has the duty to be responsible for the provision of guidance and technical assistance and training to the Association, except during the Resettlement Implementation Period (or 8 years or more) when the NT2 Project and its TA will be responsible, in coordination with the Provincial Agriculture and Forestry Office, and in accordance with the management plan, operational plan and training plan of the Association.

PART VI
Operating Permits

Article 27: The Governor of Khammouane Province agrees to approve the exemption to the Association from paying any and all local taxes or levies.

Article 28: The Governor of Khammouane Province hereby agrees to grant licenses to the Association, including the right/approval to establish a sawmill, logging, wood processing, transportation of logs and any/all timber products and any other licenses required by the Association for the conduct of its activities. The relevant Provincial agencies must review and issue such licenses following the application by the Association, in the cases of license to establish a sawmill and logging, must issue the same within 14 days after the signature (of this amendment).

This decision to amend has effectiveness from the date of signature

Provincial Governor Khammouane

Khambai Damlat

Annex 3-5: Decision 085.KM.GOV of the Provincial Governor, Khammouane, on the Management and Use of the Resettlement Area and the NT2 Reservoir on the Nakai Plateau.

LAO PEOPLE’S DEMOCRATIC REPUBLIC
PEACE INDEPENDENCE DEMOCRACY UNITY PROSPERITY
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Khammouane Province

No: 085/KM.GOV
Thakhek, date: 09 Feb 2005

Decision
of the Provincial Governor, Khammouane Province,
Chairman of the Resettlement Committee
on the Management and Use of the Resettlement Area and the NT2 Reservoir on the
Nakai Plateau for that is impacted by the NT 2 Project

Reference is made to:

- The Law on the Government of Lao PDR No. 01/NA, dated 8 March 1995;
- The Forestry Law No. 125/PO, dated 2 November 1996;
- The Water and Water Resource Law No. 126/NA, dated 2 November 1996;
- The Environment Protection Law No. 2/99/NBA, dated 3 April 1999;
- The Land Law No. 4/NA dated 21 October 2003;
- The Prime Minister’s Decree 193/PM dated 29/12/2000 (“**PM Decree 193**”) on the establishment of the Nakai-Nam Theun NCBA, Corridor Areas, NT2 Project Reservoir Area and Resettlement and Forest Area for people affected by the Project;
- (Supplementary) Decree No. 37/PM dated 12/4/02 (“**PM Decree 37**”) on the approval of the allocation of the resettlement and forest area to people and village organizations affected by the Nam Theun 2 Project for carrying out forestry business activities, No. 37/PM dated 12/4/02 (“**PM Decree 37**”);
- the NT2 Resettlement Policy (No. 1147/CPC) dated 22 July 2002 executed by the Deputy Prime Minister (the “**NT2 Resettlement Policy**”);
- the Concession Agreement dated 3 October 2002 as amended between the Government of Lao PDR and Nam Theun 2 Power Company Limited (the “**Concession Agreement**”), same as amended; and
- the Resolution of the National Assembly (076/NA) dated 12 October 2002 approving the Concession Agreement (the “National Assembly Resolution”).

The Khammouane Provincial, Chairman of the Resettlement Committee, agrees

Article 1: Regarding the duration of use rights of garden lands, housing lands and village forests

- 1.1 The Villagers that have resettled have the exclusive rights to use the agriculture and forest resources of the Resettlement Area. The special right to use forest resources has a duration of 70 years, from the date of establishment of the NPVFA.
- 1.2 After the expiration of the resource use approvals specified above, the GOL may review and approve an extension the continuation of resource rights use in the Resettlement Area.
- 1.3 The list of Nakai Resettlers is that which is recognized by the Resettlement Committee, in accordance with the agreement of the (new) cut off date of resettlers, no. 726/PG.KM, dated 27/10/2003

Article 2: Regarding the use rights of land in the Resettlement Area

The housing and the agricultural land that the Government grants to the Resettlers must also be granted a land title in the name of the husband and wife.

Article 3: Regarding the use rights to aquatic resources of the Nakai Reservoir.

- 3.1: The Resettlers have the exclusive rights to seek a livelihood by fishing in the Nam Theun 2 Reservoir for a duration of 10 years, from the date of impoundment of waters and filling of the reservoir.
- 3.2: When the 10 years period as mentioned above is expired, the Government may review and grant rights to the other people living in other areas to access fisheries, but only if this fishing by peoples from other areas does not impact on the fisheries livelihood of the resettlers
- 3.3: Before the granting of fisheries licenses to peoples from other areas, the Resettlement Management Unit (the Reservoir Coordinating and Management Authority in the future), thru the District Administration and the villagers, must consult with Resettler villagers in regard to the possibility of the above approval of rights (to other parties).
- 3.4 The list of people who have the rights to seek a livelihood by fishing in the NT2 Reservoir is that as recognized by the Resettlement Committee, and these villagers have the rights to fisheries livelihoods on accordance with clause 3.1 above.
- 3.5: The list of the people from other areas that have the rights to fisheries in accordance with clause 3.2 above shall be informed to the relevant parties, and made public (posted) and this list will be reviewed on an annual basis.

Article 3: Regarding the management of the Reservoir.

Transfer to the Resettlement management unit (currently) or the Nam Theun 2 reservoir Coordinating and Management Agency (in the future) to coordinate with the Ministry of Agriculture and Forestry, the province, the District and other relevant parties to develop Plans, Regulations for the management of fisheries in the Nam Theun 2 Reservoir.

Article 4: This decision has effectiveness from the date of signature.

Provincial Governor of Khammouane
Chairman of the Resettlement Committee

Khambai Damlat

Annex 3-6: Entitlements Matrix; Nakai Plateau Resettlement (PAPs affected by Reservoir Inundation). Parts A, B (Support phasing out) and C (Health) - Amendment of April 2005.

PLATEAU ENTITLEMENTS PART A: COMPENSATION AND REHABILITATION MEASURES

Type of Loss	Entitled Person	Compensation and Rehabilitation measures
1. Permanent Loss of Land		
1.1: Permanent loss of agricultural land	<p>All persons who will lose agricultural lands due to the inundation of the Nakai Reservoir/</p> <p>Persons and households in August 2003 census and their natural growth (including children in registered households who may have formed new families after initial census date, but excluding relatives of a spouse who previously resided outside the area)</p> <p>Persons later accepted for inclusion by Grievance Committee under Grievance Procedure</p>	<ul style="list-style-type: none"> Provision of 0.66 ha of cleared and irrigated land per household, of which at least 0.16 ha is developed and can be used for paddy rice production. Subject to rainfed agriculture and pastoral systems being ecologically sustainable and productive, additional land in the Resettlement Area may be developed as agricultural and grazing land, and allocated to Resettlement households and their descendants, following participatory land and forest use planning processes. Subject to drawdown zone agricultural systems being ecologically sustainable and productive, additional land in drawdown zone may be developed as agricultural and grazing land, and allocated to Resettler households and their descendants, following participatory land and forest use planning processes. Land above to be provided with survey, and joint land title to husband and wife. Land clearance and development, including stump removal and terracing, depending on Resettler preference, either: (a) land to be cleared and prepared for cultivation by the Company, or (b) land to be cleared and prepared for cultivation by owner/Resettler, with owner/Resettler labour paid by the Company. People who currently cultivate paddy land will be eligible for cash or in-kind compensation other than paddy land (by agreement between the RMU and the Resettler) equivalent to five (5) years' gross productivity (calculated by reference to yield over the previous three (3) years during the Socio-Economic Baseline Survey being undertaken under clause 5.2(c)). Perimeter of village agricultural land area to be fenced (labour, barbed wire, fence posts etc) by the Company. Individual plots to be fenced by Resettler, if so chosen, with barbed wire and cement key-posts supplied by the Company. Irrigated Agricultural land to be surveyed for UXOs and rendered safe.
1.2 Permanent loss of residential and non-agricultural land	Resettlers or Resettler Households	<ul style="list-style-type: none"> Residential land equivalent to the greater of (1) at least 600m² (indicatively 20m x 30m) plot for the construction of new timber house and surrounding garden, or (2) the area of housing land lost. Households with 7 or more persons containing two families have the option to have two house plots. Provision of land will be on the designated planned resettlement village site, service by all-weather roads, electricity and drainage. Land above to be provided with survey, and joint land title to husband and wife. Housing land, and whole village urban area, to be surveyed for UXOs and rendered safe.
1.3 Permanent loss of business / commercial land	Documented owners or non-renting occupant Resettlers or Resettler households	<p>Compensation with replacement land on a fully serviced resettlement site, or in cash, as below:</p> <ul style="list-style-type: none"> Resettlers who prefer replacement business land, will be provided with replacement land of <u>at least</u> equal size and amenity to the affected land in a location on the designated resettlement site with comparable commercial advantage. In this case no cash will be paid, but provision of new land.

Type of Loss	Entitled Person	Compensation and Rehabilitation measures
		<ul style="list-style-type: none"> • Such replacement land will be provided with access to a road, of at least equal amenity to the current access. The Resettler will also be provided with access to electricity to the building or structure. • Land provided with survey, and joint title to husband and wife. • Land to be cleared and prepared for construction and by owner, with own labour paid. <p>For Resettlers who prefer cash compensation, the Project will pay for the land at its replacement value as estimated by the local market value of the year in which compensation is paid in a similar situation of a non-affected village in the same District.</p>
2. Loss of House and other fixed assets		
2.1: Permanent loss of House	<p>Resettler households.</p> <p>All households whose house will be affected by inundation of the Nakai reservoir</p> <p>Households living in Ban PhonPhanBaek as of August 2003 Census</p>	<ul style="list-style-type: none"> • The labour cost associated with the dismantling of existing house. • Transportation of dismantled housing materials to new house lot or associated cost (noting that these old materials, however, are not considered as materials to make up the minimum house standard). • Provision of all new materials for construction of new house with the following minimum standard, subject to incorporation of village preferences: concrete or hardwood for support posts/columns, hardwood for all floor construction, wood products (excluding for the avoidance of doubt, bamboo) for wall construction and corrugated sheet metal for roofing (with hardwood roof structure). • At the discretion of the Resettler household, materials from the dismantled house can be used to construct the house of minimum standard, or, added on to the house of minimum standard, where such addition (construction) is at the Resettlers own costs, and preferably undertaken after construction of the new house. • Construction of, or assistance with construction of new house in which cash labour contribution of the Resettler is paid by the Company. • House design to be finalised in consultation with, and in consideration of the preferences of, each Resettler. House design to be approved by the village and the RC (on a village basis), with the possibility for further improvements during the construction phase which do not affect the BoQ of the agreed design, and as reasonably accepted by the builder. • House to be constructed in location acceptable to owner/Resettler. • Minimum housing area to be the greater of (1) existing area, or (2) 14m² of construction area per person; or (3) 42m². • Households with 7 or more persons containing two families have the option to have two houses. • Construction of toilet-bathroom (one per family - approximately 3m x 3m). Minimum standard: concrete flooring, wooden wall, corrugated iron roof and ceramic pour flush plate toilet, water jar for toilet, and appropriate septic tank. • Good quality year-round domestic water supply (in accordance with national standards), at a minimum of 1 outlet per five houses for the duration of the Resettlement Implementation Period. • Adequate drainage facilities are to be provided. • Standard electricity supply to each house, and installation of electrical wiring and appropriate safety devices in each house, and at least one (1) power point and one (1) light fixture per designed room. • Granary (one per family - 4m²): To be constructed with wooden flooring,

Type of Loss	Entitled Person	Compensation and Rehabilitation measures
		hardwood structure and sheet metal roofing.
2.2 Permanent loss of business/ commercial structure	Owner or non-tenant occupant affected by reservoir inundation	<ul style="list-style-type: none"> • The labour cost associated with the dismantling of existing business / commercial structure. • Transportation of dismantled structure materials to new business lot or associated cost (which is not however considered as materials to make up the minimum business/commercial structure standard). • Provision of new materials for construction of new structure of equal size and amenity to the old one. • Construction of, or assistance with construction of new structure or equivalent labour cost paid, with Resettlers to be given every opportunity to be involved in the construction of their structure in order to facilitate a flexible design process (to reflect Resettler preferences for design) and to ensure Resettler feelings of ownership and belonging. • Structure to be constructed in a location of comparable commercial advantage to the former location, and acceptable to owner. • Structure design to be approved by the village and the RC, with such improvements as are developed during the construction phase and with modifications reasonably accepted by the owner/occupant.
2.3 Permanent loss of physical cultural resources	Resettler village, or Resettlers households	<p>Village monasteries, temples, stupas, spirit houses, and historical artefacts will be dismantled, transported to, and reconstructed in, new village sites; or</p> <p>New buildings of at least a similar dimensions and components and construction materials will be constructed.</p> <p>Consultations and negotiations will be carried out to determine culturally acceptable method of dismantling, relocation and reconstruction at nominated sites.</p> <p>Grave sites will be the subject of special consultation to determine the best way to deal with them in a culturally acceptable manner, which may include (a) relocation or (b) appropriate ceremonies to resolve remaining in-situ. Special consideration will be given to grave sites in the drawdown zone.</p>
3. Loss of standing crops or trees, other productive assets		
3.1 Fruit Trees	Owner or person with customary right to harvest	<p>Cash Compensation for fruit trees according to the type, age and productivity, as follows:</p> <ul style="list-style-type: none"> (a) If the affected trees are young and have not started bearing fruits, a lump-sum amount to cover for the maintenance and rearing of trees. (b) In case the tree has already started bearing fruits, the annual productive value should be determined, and the compensation equivalent to five years of annual production value. <p>Note: the distribution of this compensation does not interfere with the Resettler also receiving full entitlements to new fruit tree seedlings.</p>
3.2 Timber trees	Owner or person who has planted or inherited planted timber trees	Compensation will be based on the NPV of the trees.
3.3 Garden and field crops	Owner of the crops or person with customary right to harvest	Compensation will not be necessary as relocation will be timed to enable Resettlers to harvest their crops before relocation.
4. Loss of Livelihood	<p>General principles.</p> <p>Access to livelihood programs, the objective being to ensure that Resettlers derive a reliable income by engaging in activities that are within their capacity, taking into account the availability of resources and the type of enterprises that they are already engaged in.</p> <p>Access to technical training and suitably trained livelihood extension staff to directly support the</p>	

Type of Loss	Entitled Person	Compensation and Rehabilitation measures
		<p>adoption of their new livelihoods.</p> <p>Access to skills training for off-farm employment such as tailoring and weaving, small machine repair shops and spare parts shops (pushbikes, motorbikes, power tillers), small goods shops; marketing - buying and selling local produce; processing of locally produced produce; employment in NT2 project facilities (guards, gardeners, boatmen); taxi and boat taxi drivers; other services related to tourism and construction related unskilled and semi-skilled labour).</p>
<p>4.1 Agricultural livelihood</p>	<p>Resettlers</p> <p>All households whose agricultural lands are impacted by the inundation of the Nakai reservoir</p>	<p>Agricultural development program</p> <ul style="list-style-type: none"> • Participation in Agriculture Development Program • Access to training on new farming techniques and all other training provided under the program • Agricultural advice until the end of the Resettlement Implementation Period <p>Provision of inputs</p> <p>(to be adequate quantities consistent with agricultural extension advice)</p> <ul style="list-style-type: none"> • Rice, Field crop, Vegetable, and Herb and Spice Seeds • Forage crop seeds • Fruit tree seedlings • Crushed limestone • Organic fertiliser, based on Guano • (appropriate) chemical fertiliser • Roofed compost bin: (one per family - 2m x 2 m). To be constructed from wood products with thatch roofing • Assistance with land ploughing <p>Provision of agricultural tools</p> <ul style="list-style-type: none"> • Hand-operated, portable crop sprayer (one unit per family) • Feed storage drum (one unit per family) • Hay fork (one unit per family) • Shovel (one unit per family) • Hoe (2 units per family in first year, then 1 per year for the following 4 years) • Hand jab seeder (1 per family) • Knife (2 units per family) • Punki basket (one unit per family) • Siem (one unit per family) • Crowbar (one unit per family) • Watering can (one unit per family in the first year, and two more units per family during the Resettlement Implementation Period) • Shade cloth (25m² per family) <p>Provision of agricultural equipment</p> <ul style="list-style-type: none"> • Power tiller (one per 12 families) • Rice mill (one unit per 50 families) • Maize sheller (one unit per 50 families) • Hammermill (one unit per 50 families) • Forage chopper (one unit per 25 families)

Type of Loss	Entitled Person	Compensation and Rehabilitation measures
		<ul style="list-style-type: none"> Oil press (one unit per 50 families)
<p>4.2 Forest-based livelihoods</p>	<p>All Resettler households.</p> <p>All households whose agricultural lands or other livelihoods are impacted by the inundation of the Nakai reservoir.</p>	<p>Provision of facilities:</p> <p>(a) Seed processing and storage facility approximately 10m x 10m, constructed with concrete, a covered area for final seed drying and cleaning and at least one room with air conditioning. Design to include rat and mice proofing.</p> <p>(b) Organic Fertiliser Factory, constructed with concrete flooring, hardwood structure, bamboo lattice walls and a mixture of timber tile and thatched grass roofing. Design to ensure efficient workspaces for raw materials storage, materials mixing, composting areas, packaging areas and a finished product storage area.</p> <p>Village forestry program</p> <ul style="list-style-type: none"> Household membership in the Nakai Plateau Village Forestry Association (“NPVFA”), the number of shares to be provided to a household to be equal to the number of persons in the household at time of registration. These shares cannot be sold or transferred, but can be inherited and passed on to future generations of the registered Resettler households. Each household will have full voting rights (1 vote per household) for all aspects of the NPVFA and the community forestry program. Dividends as distributed by the NPVFA. <p>Forestry equipment for the NPVFA</p> <ul style="list-style-type: none"> Chain saw (maximum of 6) and maintenance kits to match Logging trucks (Maximum of 4) Log loading crane (maximum of 1) Log and timber transport trucks (maximum of 2) Sawmills (to process maximum of 10,000 m3 per year) Sawmill Workshop tools (to match sawmills) Carpentry tools (to process maximum of 6,000 m3 per year) Charcoal kiln (one unit per 50 families) <p>Forestry Tools</p> <ul style="list-style-type: none"> Axe (one unit per family) Crosscut saw (one unit per 2 families) Bow saw (one unit per 2 families) Sharpening files for each saw Tree climbing irons (one unit per 2 families) <p>UXO clearance</p> <p>Access to “on-call roving capability” during Construction Phase to ensure that when UXOs discovered in the Community Forestry Area they are removed or rendered safe.</p>
<p>4.3 Fisheries and aquatic products livelihoods</p>	<p>All Resettler Households</p> <p>All households whose livelihoods are impacted by the inundation of the Nakai</p>	<p>Fisheries development and management program</p> <ul style="list-style-type: none"> Participation in the Reservoir Fisheries development and management program, with implementation in the year of impoundment. Full access rights to fisheries in the Reservoir for subsistence purposes. Access rights to Reservoir for commercial fisheries in accordance with the Reservoir Fisheries and Management Program.

Type of Loss	Entitled Person	Compensation and Rehabilitation measures
	reservoir.	<p>The program will provide the Resettler community with fisheries equipment and fishing gear. The distribution and use of the gear is dependent on (a) community consensus, and (b) the agreed upon fisheries management modality. The quantity of fishing gear will be sufficient to fully utilize the sustainable yield of the Reservoir, and will include up to the follow amount of gear:</p> <ul style="list-style-type: none"> (a) Large boats with appropriate motors: up to 75 (b) Medium boats, with appropriate motors: up to 300 (c) Small paddle boats: up to 500 (d) Fishing nets and other gears of a type and quantity to enable: <ul style="list-style-type: none"> (i) All families to fish for subsistence; and (ii) Commercial fishing to extract least 1,500 tonnes per year. <ul style="list-style-type: none"> • Training in full range of related topics.
	Per Resettler village	<ul style="list-style-type: none"> • Construction of a fish landing and trading place, designed to allow easy boat mooring, concrete steps to the banks (in the order of 12 m vertical height), a concrete slab and drain with a shelter for fish to be protected against sun and rain during the sorting process. • Access roads will be provided to the fish landing places. • Fish trading equipment. • Ice plants, of a number and size to handle at least 1,000 tonnes of fish per year.
5. Loss of common property community infrastructure		
5.1 Electricity distribution system	Each Resettler village	<ul style="list-style-type: none"> • A 22 kV distribution network and step-down transformers in accordance with EDL network practices Electricity supply to each Resettler house and newly constructed community buildings within the Resettlement Area. • Installation of electrical wiring and appropriate safety devices in each community building: at least one (1) power point and light fixture and fitting per room.
	Prior to connection to network	Provision of electricity (via electricity generators or other means), and any associated costs of operation and maintenance, to provide to each household and community building electricity for 2 light bulbs per building.
5.2 Roads and tracks		Road and track network as provided in village development plans.
5.3 Meeting hall and village office	Per village with indicative size of 1 m ² per family	To be constructed with hardwood structure, except for the bottom one (1) metre of the walls which shall be rendered brick, and sheet metal roofing with a floor of concrete or hardwood and incorporating a small office for the village chiefs, WUGs and other community groups. To be connected to electricity supply (as provided in clause 5.1 above) and have water supply and an adequate sewage system and drainage facilities.
5.4 Roofed market	Per village with indicative size of 1m ² per family	To be constructed with concrete floor and concrete support posts, wooden roof structure and sheet metal roofing.
5.5 Warehouse	Per village	50 m ² . To be constructed with concrete flooring, rendered brick structure and walls and sheet metal roofing.
6. Loss of common property resources		
6.1 Forest	All Plateau Resettlers All whose livelihood base was the plateau to be inundated	Membership in and benefits from the Community forestry program (clause 4.3 above).

Type of Loss	Entitled Person	Compensation and Rehabilitation measures
6.2 Grazing land	All Plateau Resettlers All whose livelihood base was the plateau to be inundated	<ul style="list-style-type: none"> • Participation in a livestock development program which will have the objective of enabling Resettlers to develop productive and sustainable livestock production as a part of their livelihood system post relocation. • Cattle (breeders) for those with no cattle/buffalo, and 1 cattle (breeder) for those with 1 to 3 • Access to developed grazing lands • Access to developed watering points • Urea licks • Extension advice • Subsidized vet medicines • Cattle yard and crush, 150 m2. To be constructed from wood products (per 50 families) • Gully head pond 800 m3 per 25 families where physical conditions allow • Gully stop dam chains 25m3 per 5 families where physical conditions allow
6.3 Fisheries	Resettlers who elect to participate	<p>Full access rights to fisheries in the Reservoir after inundation. Participation in the fisheries development and management program (clause 4.4 above).</p> <p>Prior to inundation, Villagers may continue to fish in the wetlands of the plateau, including those created by the coffer dam.</p>
7: Educational Entitlements		
7.1 Nursery school	Per village	<p>Each village shall decide whether the nursery school will be part of the village primary school or independent of it.</p> <p>The nurseries will be designed to allow good circulation, with a mixture of wooden tile and corrugated iron roofing, rainwater collection and latrines; and equipped with bedding, mosquito nets, educational toys and first aid kits.</p> <p>Minimum standard: To be constructed with concrete flooring, hardwood structure (except for the bottom one (1) metre of the walls which may be rendered brick), ceiling and sheet metal roofing or timber tiles.</p> <p>A wooden fence must be constructed around the school yard and a wooden flagpole must be constructed in the school yard.</p> <p>To be connected to electricity supply and have water supply and an adequate sewage system and drainage facilities.</p> <p>There will be at least two toilets per pre school (one for boys and one for girls).</p>
7.2 Primary school	Per village and group of villages	<p>Each village will at least have school providing education to P1 and P2 level.</p> <p>Each village must be within 5km of a P3 to P6 school, to the extent reasonably feasible, depending on the number of students.</p> <p>School Design based on 2 students/family, 30 students per classroom and 56m² per classroom.</p> <p>Minimum standard: To be constructed with concrete flooring, hardwood structure (except for the bottom one (1) metre of the walls which shall be rendered brick), ceiling and sheet metal roofing or timber tiles.</p> <p>A wooden fence must be constructed around the school yard and a wooden flagpole must be constructed in the school yard.</p> <p>To be connected to electricity supply and have water supply and an adequate sewage system and drainage facilities.</p> <p>There will be at least one toilet provided per classroom, with a minimum of two toilets per school (one for boys and one for girls).</p>

Type of Loss	Entitled Person	Compensation and Rehabilitation measures
7.3 School equipment and supplies	Per school	One set of Tables, chairs, blackboard and cupboard for each classroom
7.4 Teachers' housing	Teachers	Maximum of 1 house per teacher family, or 1 house per 2 unmarried teachers, up to 3 years after relocation. To be constructed to the same standard, with the same amenities, as the Resettler housing.
8 Allowances and Transitional Measures		
8.1 Disturbance allowance	All Resettlers	USD 15 per person.
8.2 Food security	As required for vulnerable Resettler households	Rice and protein (meat) foods will be provided to Resettlers who have a genuine shortage and need for the same. The Village Resettlement Committee will monitor and review the status of each household on a monthly basis, and make a request to the Company. The Company will provide such supplements within 15 days of the monthly request. If the Company considers the request unacceptable, the case will go to the Grievance Committee. A household can also make a claim through the Grievance Committee. Household rice and protein requirements will be based on a schedule of requirements, consistent with national average standards, and as agreed between the VRC, the GOL and the Company. The process will be monitored by the external monitors.
8.3 Wage labor	All Resettlers	Each laborer (man and woman) will receive rice and/or cash as payment for their labor to develop the resettlement sites, build their houses and other activities in the development of infrastructure and livelihoods. The rate of payment for such labour will be determined from time to time by the RC and the Company, and will be dependent on the type of activity, including whether the activity is for development of households assets or community assets. Each laborer or staff will receive wages for forestry association and fisheries association activities, at a rate determined by the management of the respective associations.
9. Departees		
	Those eligible for resettlement but wishing to permanently move from the District and make their own arrangements for relocation	A one - time payment for the value of the land, trees, production, and structures lost, plus transportation and disturbance allowances, calculated on the same basis as the Project Lands Entitlements.
10. Grievance Entitlements		
In case of dissatisfaction with entitlement, program delivery or any other issues	All Resettlers	All Resettlers have the right to: (a) lodge a grievance with the VGC; (b) have the grievance considered and judgment given by the VGC; (c) if unsatisfied, further lodge the claim to the DGC; (d) have the grievance considered and judgment given by the DGC; (e) if unsatisfied, further lodge the claim to the Provincial Court; and (f) have the grievance considered and judgment given by the Provincial Court.

PLATEAU ENTITLEMENTS PART B: SCHEDULE OF LIVELIHOOD SUPPORT PHASE OUT

The support provided to Resettlers will initially be fully subsidized by the Company. After the initial period, Company support will be gradually phased out in accordance with this table. However, the phasing out will be dependant on Resettlers obtaining sufficient income to purchase the inputs themselves, as adjudicated by the independent external monitors. If it is not, the Company will continue to subsidise these inputs until the requisite levels have been reached for each household.

Support	Entitled Household	Support and Phase Out
Services		
Electricity - housing	Beneficiary Resettlers and businesses	For the first 1 year after relocation, electricity will be charged to the PAPs at half the normal EdL tariff (the balance being met by the Company). Starting one year after relocation, households will have to pay for electricity at the normal EdL tariff rate.
Electricity - irrigation pumping	Resettler household members of WUGs	Years 1 to 3: all electricity paid by the Company. Year 4 to 6: the Company to support 80 % of the costs of pumping. Year 6 onwards: the Company (via SERF funds) to support 60 % of the cost of pumping (other 40 % paid by users - if an original Resettler or natural descendent).
Household water supplied via community systems	Beneficiary Resettlers and businesses	Years 1 to 3: all water costs paid by the Company. Year 4 to 6: the Company to support 50 % of water costs. Year 6 onwards: Householders pays for water at cost equivalent of urban rural water supply tariff (and the Company to pay the rest, via SERF fund).
Household water supplied via hand pumps	Beneficiary Resettlers and businesses	Years 1 to 3: all water cost paid by the Company. Year 4 onwards: Villagers pay a fee set by the Village Committee, sufficient to maintain the facility.
Agricultural supplies		
Veterinary medicines		Year 1 to 3: All cost paid by the Company. Year 3 to ERP: 50 % subsidy paid by the Company. ERP and onwards: villagers must full pay market price.
Organic fertiliser		Years 1 to 3: all costs paid by the Company. Years 4 to 6: the Company to support 60 % of the costs. Year 6 onwards: Villagers must pay full market price
Limestone and rock phosphate Inorganic fertilizers		Years 1 to 3: all costs paid by the Company. Year 4 to 6: the Company to support 60 % of the costs. Year 6 onwards: Villagers must full pay market price.
Initial stump removal, land preparation, terracing construction		Cost fully borne by the Company.
Land ploughing (preparation) and terrace maintenance		Years 2 to 3: all costs paid by the Company. Years 4 to 6: the Company to support 50 % of the costs of ploughing, and villagers pay 50 % of costs. Year 6 onwards : Villagers must pay 100 % costs.

Support	Entitled Household	Support and Phase Out
Farm tools (hoes, water cans, knives)		Following issuance of initial entitlement - 2 per family in first year, then 1 each for the next 4 years,- the Company will subsidize 50% of required tool costs until the ERP.
Irrigation system maintenance		Years 1 to 3: all cost paid by the Company. Years 4 to 6: the Company to support 80 % of maintenance cost. Year 6 onwards: the Company to support 60 % of the cost of maintenance and the other 40 % paid by users - (if they are an original Resettler or natural descendent).
Agricultural extension services		All Resettlers will be entitled to quality agricultural extension services for at least the duration of the Resettlement Implementation Period (approximately 8 years after Project Commencement).
Educational support (a) Teaching equipment (b) Student supplies, including uniform	Staff and equipment for nursery and primary schools	Teaching equipment: Year 1 to 3: the Company will provide for all teaching equipment. Year 4 to ERP: the Company will subsidize 50 % the costs of teaching equipment. ERP onwards: GOL will provide for 100 % of the teaching equipment, and families to be responsible for student supplies and uniforms.
Safety net support		See 8.2 of clause 15.1(a) above. Additional land if required to attain and sustain income targets: [see 1.1 of clause 15.1(a) above.]

PLATEAU ENTITLEMENTS PART C: HEALTH ENTITLEMENTS

[Note: unless otherwise stated, entitlements are for duration of Resettlement Implementation Period (about COD + 5 years)]

Type of Loss	Entitled Person	Compensation and/or rehabilitation measures
1. Health infrastructure and services		
(The entitlements to use of health facilities and access to health services as specified in item 1 below relate to the facility and service entitlements as detailed under item 2 below.)		
1.1 Health Facilities	All Resettlers	<ul style="list-style-type: none"> • Access to Nakai District Hospital and two (newly built) Integrated Community Health Centers (“ICHCs”), which have: <ul style="list-style-type: none"> ○ Adequate medical and non-medical equipment; ○ Water supply and sanitary facility; ○ Appropriate numbers and levels of Ministry of Health (“MOH”) staff; and which are: <ul style="list-style-type: none"> ○ Structurally maintained for the first five years by the Company, after which MOH will maintain them as any other facility in the country; ○ Under the support and supervision of the NT2 Projects Project Implementation Unit (“PIU”).
1.2 Health Services	All Resettlers	<ul style="list-style-type: none"> • Health Checks to all Resettlers at the start of resettling in newly built villages. • Hospital/ICHCs providing all routine health services normally provided through government health services, including all preventive services under the national preventive programs, of a high standard. • Provision of curative services (including antiretrovirals (“ARV”) as follows: <ul style="list-style-type: none"> (i) free of charge for the first three years (yrs 1 to 3); (ii) 50 % subsidized cost for next three years (yrs 4 to 6); (iii) Villagers to then (yr 6 +) pay service charges as any where else in the country (except for poor families identified by Village Resettlement Committees, who shall continue to be eligible for free medical services). • Free of charge referral services for medical emergencies as/when required for the resettlement period. • Ambulance service for transfer of medical emergencies from ICHC to District Hospital (“DH”) and/or Provincial Hospital (“PH”). • School health education and other preventive programs. • Health education and awareness programs.
2. Impacts in nine Environmental Health Areas		
2.1 Impacts resulting in respiratory disease, including TB	Nakai Resettlement villages and Oudomsouk ⁹	<ul style="list-style-type: none"> • Participation in all components of the global health programs for Resettlers. • <u>Promotion and Prevention:</u> Participation in: <ul style="list-style-type: none"> ○ Health education/awareness on prevention and management of Acute Respiratory Infections (“ARI”) and Tuberculosis (“TB”); ○ National Expanded Program of Immunization (“EPI”). • New housing to be constructed to have separate, ventilated kitchen areas. • <u>Diagnosis and Detection:</u> <ul style="list-style-type: none"> ○ Improved TB laboratory services at Nakai DH; ○ Conduct contact tracing of all patients diagnosed with active TB; ○ Sputum collection at ICHC level without required hospitalization. • <u>Treatment:</u> <ul style="list-style-type: none"> ○ Treatment of ARIs in ICHC and DH, in accordance to clause 1.2 of this table.
2.2 Impacts in vector-related disease	Nakai Resettlement villages and Oudomsouk	<ul style="list-style-type: none"> • Participation in all components of Malaria Control program. • <u>Promotion and Prevention:</u> Participation in Regular education programs regarding: <ul style="list-style-type: none"> ○ Prevention and treatment of Dengue, incl. elimination of Dengue larvae breeding grounds; ○ Prevention and treatment of Malaria for the resettlement period; ○ Provision of Impregnated Bed Nets (“IBN”); ○ Health education and awareness campaigns regarding the prevention of leptospirosis if required; ○ Waste management plans and service in each Village. • <u>Diagnosis and Detection:</u> <ul style="list-style-type: none"> ○ Malaria Testing at Health Centre (“HC”) and DH level (antigen test and/or

⁹ The parties intend to include all Oudomsouk residents in the updated survey to be carried out prior to COD, in order to identify those people who shall be eligible, along with the descendants for “Oudomsouk” entitlements in this table. The purpose of such survey is to identify the households living in the area pre-Project.

Type of Loss	Entitled Person	Compensation and/or rehabilitation measures
		<p>microscopy).</p> <ul style="list-style-type: none"> • <u>Treatment:</u> <ul style="list-style-type: none"> ○ Adequate malaria treatment at HC and DH level; ○ Management of Dengue Fever, Dengue Hemorrhagic Fever, Dengue Shock Syndrome and other disease with fever as presenting problem at HC and DH level; ○ Transfer of serious patients to Province Hospital if required.
2.3 Impacts in sexually transmitted and blood borne infections	Nakai Resettlement villages and Oudomsouk	<ul style="list-style-type: none"> • Participation in existing global program. • <u>Promotion and Prevention:</u> <ul style="list-style-type: none"> ○ Participation in health education and awareness programs regarding Sexually Transmitted Infections (“STIs”) and HIV/AIDS and prevention strategies; ○ Participation in school-based HIV/AIDS and sex education program; ○ Provision of health services which implement the national guidelines/policy for the control of blood-borne pathogens (proper disposal of sharps, autoclave equipment, in house medical waste collection, destruction and storage); ○ <u>Condoms and education regarding use and disposal.</u> • <u>Treatment:</u> <ul style="list-style-type: none"> ○ Provision of treatment for STIs through the HCs and the DH (subject to clause 1.2), assuming generic ARV are available in the Lao PDR; ○ Voluntary counseling and testing for Resettlers and treatment when required for seropositive patients.
2.4 Impacts in soil and water borne diseases as well as food, nutrition and micronutrients related issues	Nakai Resettlement villages and Oudomsouk	<ul style="list-style-type: none"> • Participation in <u>Promotion and Prevention</u> program for Resettlers: <ul style="list-style-type: none"> ○ Education and awareness on drinking water systems, treatment of water and family latrines based on the MOH water and environmental sanitation program; ○ Education and awareness programs regarding fecal/oral transmission of diseases, and transmission of helminthic diseases; ○ Domestic water sources and sanitation to all households of the resettlement villages, complying with national standards; ○ Local markets with the following: 1) latrines, 2) waste receptacles and waste removal system and 3) domestic water. • <u>Provision of Treatment</u> - subject to clause 1.2: <ul style="list-style-type: none"> ○ Worm treatment for children 2-6 (for whole resettlement period); ○ Worm treatment twice a year to primary school children (during whole resettlement period); ○ Participation in health education and awareness on correct child weaning and child feeding practices adapted to changed types of food; ○ Vitamins (vitamin A, Folic Acid, Fe) for children and pregnant women. • <u>Diagnosis and Detection:</u> <ul style="list-style-type: none"> ○ DH Laboratory capable of diagnosing food, water, and soil borne infections. • <u>Provision of Treatment:</u> <ul style="list-style-type: none"> ○ Appropriate treatment of food, water and soil borne diseases at HCs and DHs; ○ Appropriate treatment of malnutrition and micronutrient deficiencies at HCs and DH; ○ Supplementary feeding for malnourished children.
2.5 Impacts in accidents / injuries, chemical exposures and poisoning	Nakai Resettlement villages and Oudomsouk	<ul style="list-style-type: none"> • Participation in appropriate education and <u>promotion on prevention:</u> <ul style="list-style-type: none"> ○ Education programs regarding road safety; ○ Education programs for electrical safety in the house; ○ Education programs on correct management of pesticides and fertilizers. • <u>Provision of Treatment:</u> <ul style="list-style-type: none"> ○ First aid treatment for mechanical and chemical traumas and poisoning at the HCs and DH (for whole Resettlement period); ○ Provision of referral system for patients requiring transfer; ○ Emergency transfer of seriously ill/injured patients to Provincial Hospital.
2.6 Psychosocial disorders	Nakai Resettlement villages and Oudomsouk	<ul style="list-style-type: none"> • Participation in <u>Promotion and Prevention:</u> <ul style="list-style-type: none"> ○ Education and awareness on psychosocial problems for villages; ○ (in coordination with Community Development “(CD)” programs) Respect to existing indigenous and ethnic institutions, culture and practices in all aspects of resettlement; ○ (in coordination with CD programs) Timely, adequate and regular information about the Project (to prevent uncertainties and stress); ○ Information Education and Communication in schools on substance abuses; ○ Support to the District Committee for Drug Control. • <u>Provision of Treatment:</u> <ul style="list-style-type: none"> ○ Sensitization of psychosocial problems at village level by Village Health Volunteers (“VHVs”) and HC; ○ Training / sensitization and management , to the extent possible, at DH level and referral to Provincial Hospital.
2.7 Cultural	Nakai	<ul style="list-style-type: none"> • Preservation of those Cultural Health Practices not detrimental to the health of users in

Type of Loss	Entitled Person	Compensation and/or rehabilitation measures
Health Practices	Resettlement villages and Oudomsouk	resettled villages. <ul style="list-style-type: none"> • Preservation of any medicinal plans that are likely to be lost during the formation of the lake and appropriate relocation. • Cultural sensitivity to Resettlers in ICHC and district hospital. • Education and awareness consistent with ethno-medical frames of representing disease, cure and prevention.

Annex 3-7: Entitlements Matrix; Project Lands PAPs - Amendment of April 2005.

Type of Loss	Entitled Person	Compensation and/or rehabilitation measures
1: Permanent loss of land		
1.1: Permanent loss of residential land (home lot)	Documented owners (validated by village authorities) or non-renting occupants identified during the Baseline Study	<p>Project Affected Persons (PAPs) will be entitled to compensation in cash or the provision of replacement land, as below:</p> <ul style="list-style-type: none"> • If the PAP wants replacement house plot land then they will be provided with replacement land of <u>at least</u> equal size and amenity to the lost land in a location acceptable to PAP. In this case no cash will be paid. The land will be cleared and levelled at the expense of the Company. • Such replacement land will be provided with access to a road, of at least equal amenity to the current access. If the current/lost land is also supporting a dwelling which has access to electricity, then the PAP will also be provided with access to electricity at the replacement land. • Such replacement land will be provided with full land title in the name of both husband and wife. • If the owner wants cash compensation then the Company will pay for the land at its replacement value as estimated by the local market value of the year in which compensation is paid in a similar situation of a non-affected village in the same District. • If the land is partially affected and the remaining landholding is sufficient to re-establish houses and structures, PAPs may opt to receive cash compensation for affected portion of land and structures. • If the land is partially affected and the remaining landholding is not sufficient to rebuild affected houses and structures, the Company will acquire the entire landholding. • Those receiving cash for land must undergo financial management training. • Any registration and land transfer fees will be paid by the Company on behalf of the PAPs.
1.2: Permanent loss of business land	Documented owners or occupants identified during Baseline Study	<p>PAPs will be entitled to compensation in cash or the provision of replacement land, as below:</p> <ul style="list-style-type: none"> • If the PAP wants replacement business land then they will be provided with replacement land of at least equal size and amenity in a location with comparable commercial advantage. In this case no cash will be paid. • Such replacement land will be provided with access to a road, of at least equal amenity to the current access. The PAP will also be provided with access to electricity (brought to the land lot) if they previously had access to electricity. • Such replacement land will be provided with full land title in the name of both husband and wife. • If the owner wants cash compensation then the Project will pay for the land at its replacement value as estimated by the local market value of the year in which compensation is paid in a similar situation of a non-affected village in the same District. • If the land is partially affected and the remaining landholding is not sufficient to rebuild affected houses and structures, the Company will acquire the entire landholding.
1.3: Permanent loss of agricultural land	Documented owners with or without certificate at the time of Baseline Study.	<ul style="list-style-type: none"> • Significantly affected farmers, i.e. who lose 10% or more of their productive (cash and imputed income generating) land assets, are entitled to replacement land and income rehabilitation measures, as follows: <ul style="list-style-type: none"> (a) Land of the same type, and of a total annual productivity at least equal to the lost (average) annual productivity of the lost land; (b) Production assistance for at least 2 years to ensure that the replacement land actually fully reaches the production targets. Production assistance to consist of fertilizer, seed, extension

Type of Loss	Entitled Person	Compensation and/or rehabilitation measures
		<p>assistance;</p> <ul style="list-style-type: none"> (c) Where irrigated land is lost the replacement land must be irrigated; (d) Where rainfed land is lost, the replacement land may be rainfed or irrigated; and (e) Such replacement land will be provided with full land title in the name of both husband and wife. <p>Where no replacement land is available, assistance to develop alternative forms of livelihood activity such as non-land-based opportunities which will generate at least as much 'income' as the lost land generated including, for example, training and access to credit.</p> <ul style="list-style-type: none"> • In cases where a significantly affected farmer's, i.e. who lose 10% or more of their productive (cash and imputed income generating) land assets, is entitled to replacement land, and income rehabilitation measures, but request a lump sum cash payout instead, then this case will be considered by the District Grievance Committee, whose decision will partly depend on: <ul style="list-style-type: none"> (a) the PAP's ability to handle cash payment; and (b) the PAP's plan of what to do with the cash payment. <p>The cash payment in this case will be based on:</p> <ul style="list-style-type: none"> (c) the 'market value' of that lost land, as assessed at the actual time of land acquisition; or (d) the cash equivalent of seven (7) years' gross production from the lost land; or (e) the actual replacement cost of the land as assessed at the actual time of payment of compensation. • In cases where less than 10% of a PAP's productive (cash and imputed income generating) land assets are impacted then cash compensation is applicable. The amount payable will be based on: <ul style="list-style-type: none"> (a) the 'market value' of that lost land, as assessed at the actual time of land acquisition; or (b) the cash equivalent of seven (7) years' gross production from the lost land; or (c) the actual replacement cost of the land as assessed at the actual time of payment of compensation. <p>Those receiving cash for land must undergo financial management training.</p> <p>Any taxes, registration and land transfer fees will be paid by the Company on behalf of the PAPs.</p> <p>Company will assist in clearing and preparing agricultural land as required</p>
2: Temporary loss of land		
2.1: Temporary impacts during construction	Owners or non-renting occupants whose land (but not structures) is affected by construction activities	<ul style="list-style-type: none"> • Extreme care shall be taken by contractors to avoid damaging properties. Where damages do occur, the Company shall pay compensation immediately to PAPs. Damaged assets will be restored to its former condition. • Any impacts on the usage of the land, or income or livelihood derived from the land that is impacted by the temporary loss of land will be compensated to the PAP, up to the value, or according to the utility, of that loss. • In addition, if crops or trees are lost, then a further cash compensation for loss of crops and trees at market values and compensation for loss of net income from subsequent crops that cannot be planted for the duration of the lease. • If the disruption continues for more than one year, PAPs have an option to (i) continue the temporary use arrangements or (ii) sell the affected land

Type of Loss	Entitled Person	Compensation and/or rehabilitation measures
		<p>to the Company at full replacement cost at current market value.</p> <ul style="list-style-type: none"> Cash compensation for any damage to structures at replacement cost at current market value and for repairing structures.
3: Loss of house and other fixed structures		
3.1: Permanent loss of houses and other structures (rice stores, toilets, kitchens, etc.)	Owners/occupiers identified during Baseline Study	<p>The same standard as for Resettlers for housing and other structures applies, as follows:</p> <ul style="list-style-type: none"> the labour cost associated with the dismantling of existing houses and other structures; transportation of dismantled housing and other materials to new house lot (which are not however considered as materials to make up the minimum house standard) or, if the PAP requests, transportation of the non-dismantled house or transportation of materials and reconstruction of the original house; the provision of new materials for construction of new house and other structures; the house materials are to be either: <ul style="list-style-type: none"> (a) the minimum standard of wood walls and floors, tin roof and cement house footings; or (b) to the standard of materials as used in the current/lost houses, depending on the choice of the PAP; construction of new house and other structures or equivalent labour cost paid; house design to be approved by the village and the PAP, but to be in general accordance with the design for the Resettlers; minimum housing area not less than current house area or 14m² of construction area per person of - whichever is greater, and depending on the choice of the PAP; households with 7 or more persons containing two families have the option to have two houses; sheds, other outbuildings and fencing to be provided, or if the PAP requests, transportation of the original shed, outbuilding or fence; if required by PAP, a toilet and bathroom to be provided (all PAPs are entitled, but some may not want); if the impacted houses had an electricity connection, then the house to be provided with electricity supply and electricity fittings (in accordance with standard which is the greater of the standard applicable for Resettlers and fittings in current house); provision of domestic water supply to at least the standard of current water supply; for partially affected houses/structures, compensation will be paid equivalent to a) the replacement value of the affected portion based on current market value, or b) the costs of repairing the property to its original or better condition.
3.2: Permanent loss of shops, other businesses	Owners/occupiers identified during the Baseline Study.	<p>Compensation at full replacement cost sufficient for PAPs to build a new structure of equivalent size and standard, with equivalent amenities, in a location with comparable commercial advantage.</p> <p>Compensation for lost income during the transition period as described below.</p>
4: Loss of crops, trees, other productive assets		
4.1: Fruit trees	Owner or person with customary right to harvest (in cases where impact is only on crop production and not related to	<p>Compensation for fruit trees will be based on the type, age and productivity and the cost of production and rearing of trees. The following compensation will be payable:</p> <ul style="list-style-type: none"> a) a lump-sum amount to cover the maintenance and rearing of trees.

Type of Loss	Entitled Person	Compensation and/or rehabilitation measures
	the land)	<p>b) compensation equivalent to the annual productive value, as should be determined for the next seven (7) years.</p> <p>Two months notice will be given to PAPs to harvest crops before construction commences.</p> <p>Two months notice to PAPs to harvest crops before construction commences.</p> <p>Mass of fruit production depends on tree age as per IOL.</p>
4.2: Timber trees	Owner or person with customary usage rights`	Compensation will be the NPV of the felled tree.
4.3: Fish ponds	Owner or person with customary usage rights	<p>Either</p> <p>(a) Replacement fish pond of equal size and/or productivity and amenity, plus assistance to stock and feed fish for 6 months; or</p> <p>(b) lump sum cash payment equivalent to 7 years lost productivity of the fish pond.</p> <p>Two months notice to PAPs to collect fish.</p>
4.4 Garden and field crops	Owner of the crops	<p>Compensation for any crop unharvested at the time of relocation , or Project Impact, based on gross harvest income. Standing crops will be compensated at full replacement cost regardless of maturity of crops.</p> <p>Additional compensation for one year’s agricultural production or more until replacement land is productive.</p> <p>Two months notice (before the Projects impacts is expected to be felt) will be given to PAPs to harvest crops.</p>
5: Loss of other household income sources		
5.1 Wage laborers in relocating businesses or in businesses temporarily affected during construction (such as reduced access)	Wage laborers whose jobs have been lost or interrupted by, or as a result of, the Project	Cash compensation equivalent to the greater of their existing wage and minimum wage for up to six months, depending on the duration of interruption, paid on a monthly basis.
5.2 Agricultural wage laborers	Wage laborers whose jobs have been lost or interrupted by, or as a result of, the Project	Cash compensation equivalent to the greater of their existing wage and minimum wage for up to six months, depending on the duration of interruption, paid on a monthly basis.
6: Loss of common property structures		
6.1: Electricity and telecom lines	Community	Relocate or place underground to maintain service.
6.2: Road and tracks	Community	Full restoration, replacement by alternative route, or the new resettlement area fully serviced by road of at least equivalent standard and amenity.
6.3: Irrigation channels	Community	Full restoration, replacement, or the new resettlement area fully serviced by irrigation system and channel of at least equivalent standard and amenity.
6.4: Water source	Community	Full restoration, replacement by alternative water source, or the new resettlement area fully serviced by road of at least equivalent standard and amenity.

Type of Loss	Entitled Person	Compensation and/or rehabilitation measures
6.5 Schools, clinics, other government buildings, bridges	Community	Full restoration to original or better condition, or replacement if necessary at locations identified in consultation with affected communities and relevant authorities at no cost to the community.
6.6 Town	Oudomsouk town	The Company will undertake community and town planning and prepare and implement a design for a reorganized town, in consultation with local authorities and residents, to restore the impacted section of the town to its pre-Project conditions or better.
7: Loss of common property resources		
7.1: Loss of NTFP gathering areas	Villagers who have had customary rights to the common property resource	<ul style="list-style-type: none"> In case where the loss of the NTFP gathering area represents more than 10 % of a village's NTFP gathering area, then a replacement NTFP area will be identified and allocated. In case where alternative NTFP gathering area cannot be identified, then, depending on the preference of the village, the Company will either: <ul style="list-style-type: none"> (a) provide funds and TA for the domestication of NTFPs; or (b) provide a lump sum cash payment to the village development fund equivalent to 7 years of the value of impacted (lost) NTFPs. In case the loss represents < 10 % of the village's NTFP gathering area, a lump sum cash payment will be made to the village development fund, equivalent to 7 years value of impacted (lost) NTFPs. <p>If community income loss is expected (e.g. irrigation, community forest, community grazing land, income from fishpond), the relevant authority that owns the resource (village, commune or district authority) is entitled to compensation for the total production loss (over 7 years); this compensation should be used collectively for income restoration measures and/or new infrastructure.</p>
7.2: Loss of firewood and wood product gathering areas	Villagers who have had customary rights to the common property resource	<ul style="list-style-type: none"> In cases where the loss of the firewood gathering area represents more than 10 % of a village's firewood gathering area, then a replacement firewood area will be identified and allocated. In cases where alternative firewood gathering areas cannot be identified, then, depending on the preference of the village the Company will provide funds and TA for the establishment of firewood plots over a 2 year implementation period.
7.3 Loss of fish and aquatic products		<p>Either:</p> <ul style="list-style-type: none"> (a) cash compensation, based on the value of the annual loss of catch x 5 years; or (b) provision of replacement fish or protein production systems; or (c) provision of alternative livelihood enterprises which produce net income equivalent to that lost.
8: Allowances and Transitional Measures		
8.1 Disturbance allowance	Significantly impacted PAPs (those whose land or income is impacted by more than 10%) and PAPs relocating	USD 15 per person.
8.2 Materials transport allowance	All relocating PAPs with structures All relocating tenants	In kind assistance with vehicles and labourers. Preference to be given to local transportation and labourers, particularly PAPs.

Type of Loss	Entitled Person	Compensation and/or rehabilitation measures
8.3 Rental allowance	Tenants in rental properties adversely affected by Project Lands.	Six months rent at prevailing market rate. Any penalties associated with ending lease early paid by government.
	Landlords whose rental property is adversely affected by Project Lands.	Six months rent allowance will be provided, to allow for rebuilding and finding tenants. Payment of penalties for ending lease contract early.
8.4 Business transition allowance	Owners of small businesses and shops identified in the Baseline Study	An allowance equal to six months income (as assessed for each business during the Socio-Economic Survey referred to in clause 5.2).
8.5: Transistional Food Assistance	All relocating PAPs and PAPs severely affected by loss of productive (food generating) assets who are identified in the Implementation Plan, and whose livelihood restoration program has not yet been fully implemented or successful.	Rice and protein will be provided as required to Project Affected Persons to the extent that their rice and protein production and intake has been impacted by the Project and such rice and protein production and intake not yet restored. This will be assessed by the Village Development/Resettlement Committees, and confirmed by the District social welfare office, and reviewed from time to time by monitors. The rice and protein supplement shall be provided by the Company on a quarterly basis, or more regularly if required, according to needs. (Regular internal monitoring will be essential and prompt delivery of food security as soon as it is needed. A special fund will be available to enable quick response).
8.6: Transistional Income Assistance	All relocating PAPs and PAPs severely affected by loss of productive (income generating) assets who are identified in the Implementation Plan, and whose livelihood restoration program has not yet been fully implemented or successful.	Cash will be provided as required to Project Affected Persons to the extent that their income has been impacted by the Project and such income not yet restored. This will be assessed by the Village Development/Resettlement Committees, and confirmed by the District social welfare office, and reviewed from time to time by monitors. The income assistance shall be provided by the Company on a quarterly basis, or more regularly, if required.
8.7 Special assistance	All relocating PAPs and PAPs significantly impacted (those whose land or income is impacted by more than 10%) and who are identified during the Baseline Survey as being below the Poverty Line.	300,000 kip for each family below the poverty line. (equivalent to one months salary for the head of household which is assumed to be the time taken for moving which a family with none or little assets or savings and may be required to pay out of pocket expenses)
	PAPs without adequate labour to assist with resettlement activities	300,000 kip for each family without sufficient labour resources to relocate . as decided by the Village Development/Resettlement Committee. Entitlement is additive, ie poor families without sufficient labour receive 600,000 kip.

Type of Loss	Entitled Person	Compensation and/or rehabilitation measures
	PAPs whose livelihood restoration program has not yet been fully implemented or successful	Food security (rice and protein supplement) as required until restoration of livelihood. Regular internal monitoring will be essential and prompt delivery of food security as soon as it is needed. A special fund will be available to enable quick response.
8.8 Grievance entitlements	All PAPs	Full access to the Grievance Procedure, if and when required.

Annex 3-8: Entitlements Matrix; Downstream PAPs - Amendment of April 2005

Type of Loss	Entitled Person	Compensation and/or rehabilitation measures
1. PERMANENT LOSS OF LAND		
1.1: Permanent loss of residential land (home lot) and non agricultural/garden land	Documented owners (validated by village authorities) or recognized occupant users as at the cut off date identified in the Implementation Plan.	<p>Project Affected Persons (PAPs) will be entitled to compensation in cash or the provision of replacement land, as follows:</p> <ol style="list-style-type: none"> If the PAP wants replacement house plot land then they will be provided with replacement land of <u>at least</u> equal size and amenity to the lost land in a location acceptable to the PAP. In this case no cash will be paid. The land will be cleared and levelled at the expense of the Company. Such replacement land will be provided with access to a road, of at least equal amenity to the current access. If the current/lost land is also supporting a dwelling, then the PAP will also be provided with access to electricity. Such replacement land will be provided with full land title in the name of both husband and wife. If the owner wants cash compensation then the Company will pay for the land at its replacement value as estimated by the actual local market value at the time the compensation is actually paid. Those receiving cash for land must undergo financial management training. If the land is partially affected and the remaining landholding is sufficient to re-establish houses and structures, PAPs may opt to receive cash compensation for the affected portion of land and structures. If the land is partially affected and the remaining landholding is not sufficient to rebuild affected houses and structures, the Company will acquire the entire landholding. <p>Land disturbance allowance will be provided which is equivalent to 10% of the total compensation amount calculated for affected land.</p> <p>The Company shall meet any applicable registration and land transfer fees.</p>
1.2: Permanent loss of business land	Documented owners (validated by village authorities) or recognized occupant users, as at the cut off date identified in the Implementation Plan.	<p>PAPs will be entitled to compensation in cash or the provision of replacement land, as follows:</p> <ol style="list-style-type: none"> If the PAP wants replacement business land then they will be provided with replacement land of at least equal size and amenity in a location with comparable commercial advantage. In this case no cash will be paid. Such replacement land will be provided with access to a road, of at least equal amenity to the current access. The PAP will also be provided with access to electricity (brought to the land lot) and a full land title. Such replacement land will be provided with full land title in the name of both husband and wife. If the owner wants cash compensation then the Company will pay for the land at its replacement value as estimated by the local market value of the year in which compensation is paid in a similar situation of a non-affected village in the same district. <p>If the land is partially affected and the remaining landholding is not sufficient to rebuild affected houses and structures, the Company will acquire the entire landholding.</p>
1.3: Permanent loss of riverbank gardens and other agricultural	Documented owners (validated by village authorities) or occupants identified as at the cut off date identified in the	<ol style="list-style-type: none"> For those PAPs whose crops and land are impacted and where the loss of productive land is more than 10% of the PAP's total productive capacity then compensation will be through provision of "land for land" of equal productive capacity and in a location satisfactory to the PAP. Land will be cleared, levelled and otherwise prepared for cultivation at the expense of the Company.

Type of Loss	Entitled Person	Compensation and/or rehabilitation measures
land	Implementation Plan.	<p>b) Garden and field crops livelihood restoration program:</p> <ul style="list-style-type: none"> (i) If land is available, the gardens shall be relocated on the same riverbank (at a higher level). (ii) If land is not available on the same riverbank, the following measures shall apply: <ul style="list-style-type: none"> (A) Extension of irrigation system to new land away from the riverbank if there is already an existing irrigation system in the village; or (B) Installation of a new water supply to irrigate new land if there is no irrigation system in the village. <p>In lieu of new pumping costs, additional land shall be provided.</p> <p>c) Production assistance will be provided for at least 2 years to ensure that the replacement land actually and fully reaches the production targets. Production assistance is to consist of pumping cost, fertilizer, seed, and extension assistance.</p> <p>d) Where less than 10% of a PAP's total productive, income generating assets is lost, the PAP has the option to receive cash compensation for the lost portion of land at current market value of the land at the time of actual compensation.</p> <p>e) Land disturbance allowance will be provided which is equivalent to 10% of the total compensation amount calculated for the affected land.</p> <p>f) If the household includes a married couple, land title will be issued in the names of both the husband and the wife, if required by the PAP.</p> <p>g) The Company will meet any applicable registration taxes and land transfer costs.</p>
2. TEMPORARY LOSS OF LAND		
2.1: Temporary loss of agricultural, garden and residential land	Documented owners (validated by village authorities) or recognized occupant users, as at the cut off date identified in the Implementation Plan.	<ul style="list-style-type: none"> a) No compensation for land will be paid if returned to the original user. However, the Company shall pay rent in a lump sum immediately (10% of the replacement cost at current market value) to the PAPs. b) In addition, if crops or trees are lost, then further cash compensation for loss of crops and trees at market values and compensation for loss of net income from subsequent crops that cannot be planted for the duration of the lease will be paid to the PAPs. c) If the disruption continues for more than one year, the PAPs have an option to: <ul style="list-style-type: none"> (i) continue the temporary use arrangements; or (ii) sell the affected land to the Company at full replacement cost at current market value. d) Cash compensation will be paid to the PAPs for any damage to structures at replacement cost at current market value and for repairing structures. e) Extreme care shall be taken by contractors to avoid damaging properties. Where damage does occur, the Company shall pay compensation immediately to the PAPs. Damaged assets will be restored to their former condition.
3. LOSS OF HOUSE AND OTHER FIXED ASSETS		
3.1: Permanent loss of houses and other structures (rice	Documented owners (validated by village authorities) or recognized occupant	Compensation will be paid by the Company, in the form of cash, materials or a combination of both, without deduction for depreciation or salvageable materials, or service provided, for:

Type of Loss	Entitled Person	Compensation and/or rehabilitation measures
stores, toilets, kitchens, etc.)	users, as at the cut off date identified in the Implementation Plan.	<p>a) The labour cost associated with the dismantling of existing housing and other structures.</p> <p>b) Transportation of dismantled housing and other materials to the new house lot (which are not, however, considered as materials to make up the minimum house standard).</p> <p>c) The provision of new materials for construction of the new house and other structures.</p> <p>d) The house materials are to be either:</p> <p>i) the minimum standard of wood walls and floors, tin roof and cement house footings; or</p> <p>ii) to the standard of materials as used in the current/lost housing, depending on the choice of the PAP.</p> <p>e) Construction of the new house and other structures or equivalent labour cost.</p> <p>f) House design to be approved by the PAP, but to be in general accordance with the original design.</p> <p>In addition, the following entitlements apply:</p> <p>a) Minimum housing area not less than existing area, or 14m² of construction area per person with a minimum total area of 42m² - whichever is greater, and depending on the choice of the PAP.</p> <p>b) Households with seven or more persons containing two families have the option to have two houses.</p> <p>c) Sheds, other outbuildings and fencing to be provided.</p> <p>d) If required by the PAP, a toilet and bathroom to be provided (all PAPs are entitled to them, but some may not want them).</p> <p>e) If the original house was connected to the electricity grid, the new house is to be provided with electricity supply and a minimum standard of electricity fittings.</p> <p>f) Access to a domestic water supply.</p> <p>g) For partially affected houses/structures, compensation will be paid equivalent to:</p> <p>i) the replacement value of the affected portion based on current market value; or</p> <p>ii) the cost of repairing the property to its original or better condition.</p> <p>h) Any PAP that is renting a house will be provided with assistance until another rental house is found and relocation is complete.</p>
3.2: Permanent loss of shops, other businesses	Documented owners (validated by village authorities) or recognized occupant users, as at the cut off date identified in the Implementation Plan.	<p>Compensation will be paid at full replacement cost sufficient for PAPs to build a new structure of equivalent size and standard, with equivalent amenities, in a location with comparable commercial advantage.</p> <p>Compensation will be paid for lost potential income during the transition period, based on the average income of the business over the last 6 months.</p> <p>Employees will receive cash compensation equivalent to wages for each day that they cannot work during relocation.</p> <p>Payment in kind is preferred. PAPs can exchange building materials for cash if they wish to reuse existing building materials or upgrade the type of structure.</p> <p>To avoid disturbance or loss of income, all shop owners will be given sufficient time to reconstruct /re-establish their shops to new sites before they are required to dismantle their structures and relocate.</p>

Type of Loss	Entitled Person	Compensation and/or rehabilitation measures
4. LOSS OF CROPS, TREES OR OTHER PRODUCTIVE ASSETS		
4.1: Fruit trees	Owner or person (validated by village authorities or identified in the Implementation Plan) with customary right to harvest.	<p>Compensation for fruit trees will be based on the type, age and productivity and the cost of production and rearing of trees. The following compensation will be payable:</p> <ul style="list-style-type: none"> a) a lump-sum amount to cover the maintenance and rearing of trees. b) compensation equivalent to the annual productive value, as should be determined for the next seven (7) years. <p>Two months notice will be given to PAPs to harvest crops before construction commences.</p>
4.2: Timber trees	Owner or person (validated by village authorities or identified in the Implementation Plan) with customary right.	Compensation will be based on the net present value of the felled or fallen trees.
4.3: Fish ponds	Owner or person (validated by village authorities or identified in the Implementation Plan) with customary right.	<p>Either:</p> <ul style="list-style-type: none"> a) Replacement fish pond of equal size and/or productivity and amenity, plus assistance to stock and feed fish for 6 months will be provided; or b) Lump sum cash payment equivalent to 7 years lost productivity of the fish pond will be made. <p>Two months notice will be given to PAPs to collect fish.</p>
4.4: Garden and field crops	Owner of the crops.	<p>For those PAPs whose crops are impacted, compensation will be paid for crops based on gross harvest income taking into consideration the cost of production and investment. Standing crops will be compensated at full replacement cost regardless of maturity of crops. Additional compensation will be paid for one year's agricultural production or more until replacement land is productive.</p> <p>Two months notice will be given to PAPs to harvest crops before construction commences.</p>
5. LOSS OF COMMON PROPERTY COMMUNITY STRUCTURES		
5.1: Electricity and telecom lines	Community.	Electricity and telecom lines will be relocated or placed underground to maintain service.
5.2: Roads and tracks	Community.	<p>Any roads or tracks impacted by the Project will be fully restored, or replaced by an alternative route.</p> <p>Any resettlement area will be fully serviced by roads of at least equivalent standard and amenity.</p>
5.3: Irrigation pumps	Community.	<p>Pump and pipe footings will be strengthened, as required.</p> <p>Pontoon pumps (and less likely axial pumps) will be relocated, as required.</p> <p>Required adjustment to connections systems (flexible hoses, electric wires and ropes) will be made.</p> <p>A warning system for unusual level fluctuations will be designed and implemented.</p>
5.4: Temples threatened by increased erosion	Community.	Riverbanks will be appropriately protected, through gabions for instance, to avoid relocation.

Type of Loss	Entitled Person	Compensation and/or rehabilitation measures
5.5: Access across the river	Community.	The measures to be implemented will depend on consultations with villagers; they may include: <ul style="list-style-type: none"> a) Provision of canoes and simple (“long tail”) engines; b) Pedestrian bridges (possibly of “suspended” type); and c) Round culverts and/or high box culverts (with load limit, excluding the use by logging trucks).
6. LOSS OF COMMON PROPERTY RESOURCES		
6.1: Loss of fish and aquatic products	PAPs affected by loss of income/protein from fish catch, as identified in the Implementation Plan).	PAPs are entitled to participate in livelihood restoration programs so as to ensure that their level of fish, protein and fisheries income lost, are at least restored to pre-Project levels. <p>The fisheries and livelihood restoration program may include:</p> <ul style="list-style-type: none"> a) Fish for fish aquaculture programs (such as integrated fish-rice farming, fish pond culture, and integrated livestock-fish farming); b) Development of alternative livestock production program; and <p>Improved natural fisheries management option in rivers and wetlands.</p> <p>The level of income restoration programs required will be identified on a household by household and village by village basis through the Implementation Plan to be carried out.</p> <p>PAPs will be entitled to receive the full benefit of the technical assistance and extension services to be provided by the Company.</p>
6.2: Domestic water source	Communities and households currently dependent on the Xe Bang Fai River for domestic water.	Provision of new water supply systems: <ul style="list-style-type: none"> a) For villages where domestic water supply dependence on the Xe Bang Fai River is 50% or above, the Company will provide a new water system for the entire village. b) For villages where domestic water supply dependence on the Xe Bang Fai River is less than 50%, provision of the new water system will be made to the corresponding percentage of the population of that village. <p>Villagers will be offered open wells or deep wells depending on technical feasibility and community preference. Where feasible or required, a semi reticulated system will be provided.</p>
7. ALLOWANCES AND SPECIAL TRANSITIONAL MEASURES		
7.1: Disturbance allowance	Significantly impacted PAPs (those whose land or income is impacted by more than 10%).	Each person will be paid USD 15.
7.2: Materials transport allowance	All relocating PAPs with structures. All relocating tenants.	In kind assistance with vehicles and labourers will be provided. Preference to be given to local transportation and labourers, particularly PAPs.
7.3: Local labour preference	All households participating in the program.	The Company and the GOL will give preference to local village labour and contractors in the implementation of all programs.
7.4: Rental allowance	Tenants in rental properties adversely affected by Project Lands.	Six months rent (per household) at prevailing market rate will be paid.

Type of Loss	Entitled Person	Compensation and/or rehabilitation measures
	Landlords whose rental property is adversely affected by Project Lands.	Six months rent allowance will be provided, to allow for rebuilding and finding tenants. Penalties will be paid for ending lease contracts early.
7.5: Business transition allowance	Owners of small businesses and shops identified during the Implementation Plan.	An allowance equal to six months income (as assessed for each business during the socio-economic survey referred to in clause 3.1).
7.6: Special assistance	All relocating PAPs and PAPs severely affected by loss of productive (income generating) assets who are identified in the Implementation Plan.	Rice and protein supplements will be provided as required to Project Affected Persons to the extent that their food security has been impacted by the Project and not yet restored, as assessed by the village development committees, and confirmed by the District social welfare office. The rice and protein supplement shall be provided by the Company on a quarterly basis, according to needs.
7.7: Grievance entitlements	All PAPs.	All PAPs will have full access to the Grievance Procedure established under Part 1 of Schedule 4.

Annex 3-9: Health Entitlements of PAPs in Other Project Areas (Regional) - Amendment of April 2005

[Note : this program is to be implemented until the End of the Resettlement Implementation Period (approximately COD +5 years)]

Type of impact or activity	Entitled Person	Compensation and rehabilitation measures
1. Health Infrastructure		
1.1 Health Facilities	Any person residing in the area covered by the health facilities of Gnommalat, Nakai, Khamkheut and Mahaxai	<ul style="list-style-type: none"> Availability of improved health infrastructure at Provincial, District and Village group level (ICHCs) for better health service provision. <p>[Note: NT2 Project will make improvements to be made through Assistance with medical equipment for District hospitals and Provincial hospitals and non-medical equipment for District and Provincial health offices.]</p>
1.2 Health Services	Any person residing in the area covered by the health facilities of § 1.1	<ul style="list-style-type: none"> Availability of improved health services in Health Facilities. Improvements to be made through provision of: <ul style="list-style-type: none"> Curative service, under the same rules and regulations as anywhere else in the country; All preventive services, under the national preventive programs operating in the country; Training and transference of appropriate technology among health workers and practitioners, and supervision of the health centre staff; Strengthened referral services in district hospitals, so that serious patients are evacuated to provincial hospitals well stabilized and without undue delay; Strengthened services in Villages and Health Centers.
1.3 Health Services (in communities)	Communities in the Downstream Areas (XBF, XBF Hinterland, Nam Phit Hinterland, Nam Kathang and Nam Theun)	<ul style="list-style-type: none"> Availability of improved health services at the community level. Improvements to be made through provision of: <ul style="list-style-type: none"> School health education and other preventive programs in the schools; Health education and awareness programs delivered to the communities.
2. Impacts in nine environmental health areas		
2.1. Provision of treatments	All Project Affected People requiring medical treatment	<ul style="list-style-type: none"> Availability of essential drugs (in a manner consistent with then current MOH policies and institutional arrangements for health at all levels).
2.2. Respiratory diseases	- camp-followers - villages near the workcamps - roadside communities (Rd 12 & 8B)	<ul style="list-style-type: none"> Participation in <u>Health Promotion and Prevention Program</u>: <ul style="list-style-type: none"> Education and awareness on prevention and management of ARI and TB; Implementation of the national EPI program through outreach; BCG (TB immunization) cover under EPI program. Availability of <u>Diagnosis and Detection</u>: <ul style="list-style-type: none"> Improvement of the TB laboratory diagnostic capabilities in a collaborative approach with the 3 Districts; Conduct of contact tracing of all patients diagnosed with active TB through visits to the patient's village to interview and examine family members and close relatives. Availability of <u>Treatment</u>: <ul style="list-style-type: none"> Availability of treatment of ARIs through the HCs and the DH; Availability of DOTS (program of TB treatment) at DH level.
2.3 Accidents, injuries, chemical exposures and poisoning	All residents in the districts of Nakai, Gnommalat and Mahaxai In Khamkheut District: the camp-followers, the villages near to the	<ul style="list-style-type: none"> Participation in <u>Promotion and Prevention</u> programs: <ul style="list-style-type: none"> Education programs regarding road safety; Education programs for electrical safety in the home in collaboration with the Ministry of Transport, Post and Communications (“MTPC”); Education programs on correct management of pesticides and fertilizers. Availability of <u>Treatment</u>: <ul style="list-style-type: none"> Availability of first aid for mechanical and chemical traumas and poisoning at the HCs and DH; At Gnommalat DH provision 24 hours a day of:

Type of impact or activity	Entitled Person	Compensation and rehabilitation measures
	workcamps and the transportation corridor	<ul style="list-style-type: none"> ▪ Emergency Care Unit (2-4 beds); ▪ Link with Provincial Blood Bank for a small stock of blood for emergency transfusion service; ▪ X-ray and ultrasound services; ▪ Emergency services for minor surgery and for stabilizing patients before transfer.
2.4 Vector- and pest-borne diseases	Camp-followers, Villages near to the workcamps Communities in the Downstream Areas	<ul style="list-style-type: none"> • Participation in strengthened existing MOH's Malaria global program. • Participation in Health <u>Education and Promotion</u> for preventable diseases and availability of elimination programs: <ul style="list-style-type: none"> ○ Education programs regarding the prevention and treatment of Dengue; ○ Vector control programs against adult and larval stages of mosquitoes in malaria and dengue outbreaks; ○ Campaigns supporting the elimination of Dengue larvae breeding grounds; ○ Education campaigns regarding the prevention and treatment of Malaria, more specifically on the use of Long-Lasting Impregnated Bed Nets ("LLIBN"); ○ Information Education and Communication ("IEC") campaigns regarding the prevention of vector borne diseases. • Availability of <u>Diagnosis and Detection</u>: <ul style="list-style-type: none"> ○ Facilities for Malaria Testing at HC and DH level (antigen test and/or microscopy). • Availability of <u>Adequate Treatment</u>: <ul style="list-style-type: none"> ○ Availability of adequate malaria treatment at HC and DH level (considering parasite resistance); ○ Availability of adequate management for Dengue Fever, Dengue Hemorrhagic Fever, Dengue Shock Syndrome and other diseases with fever as presenting argument at HC and DH level (including transfer to PH if required).
2.5 Sexually transmitted and blood-borne infections	All residents in the districts of Nakai, Gnommalat and Mahaxai In Khamkheut District: the camp-followers, the villages near to the workcamps and the transportation corridor	<ul style="list-style-type: none"> • Participation in strengthened existing MOH's STI global program. • Participation in <u>Health Education and Promotion</u> programs in prevention of STIs and HIV/Aids in the communities, including: <ul style="list-style-type: none"> ○ Information Education and Communication programs regarding STI and HIV/AIDS and prevention strategies; ○ School-based HIV/AIDS and sex education program; ○ National guidelines/policy for the control of blood-borne pathogens (proper disposal of sharps, autoclave equipment, in house medical waste collection, destruction and storage); ○ Provision of condoms and education regarding use and disposal, targeting high risk groups (free of charge and/or through social marketing); ○ Strengthened District STI services for Education and Awareness on STI including HIV counseling service. • Availability of <u>Diagnosis and Detection</u>: <ul style="list-style-type: none"> ○ Provision of improved diagnostic facilities for STIs in district hospitals and mechanism for arranging HIV testing for patients in the Provincial hospital; ○ Provision of STI services for Service Women. • Availability of <u>Treatment</u>: <ul style="list-style-type: none"> ○ Availability of treatment for STIs through the DHs; ○ Strengthening of private pharmacies to provide improved STI services.
2.6 Impacts in soil and water borne diseases	All affected residents in the districts of Nakai, Gnommalat and Mahaxai In Khamkheut District: the camp-	<ul style="list-style-type: none"> • Participation to and benefit from <u>Promotion and Prevention programs</u>: <ul style="list-style-type: none"> ○ Health education and awareness on drinking water systems, treatment of water and family latrines based on the MOH water and environmental sanitation program; ○ Health education and awareness programs regarding fecal/oral transmission of diseases, and transmission of helminthes and other parasitic diseases; ○ Public education programs on food sanitation awareness to public,

Type of impact or activity	Entitled Person	Compensation and rehabilitation measures
	follower camps, the villages near to the workcamps and the transportation corridor	<ul style="list-style-type: none"> including local restaurants and eating places; <ul style="list-style-type: none"> ○ Implementation of the primary school worm infestation treatment program to Project Impact Area/Target Group (“PIA/TG”) villages in Nakai, Gnommalat and Mahaxai. ● Benefit from improved food quality through Monitoring, Reporting and follow up of food borne diseases: <ul style="list-style-type: none"> ○ Monitoring any excess of food borne diseases and follow up to the source; ○ Regular inspections enforcing compliance with national hygiene regulations for restaurants/food vendors/abattoirs in the District Centers; ○ Regular inspections enforcing compliance with national hygiene regulations of Project facilities and those providing to camp-followers and workforce; ● Availability of Treatment and outbreak response plan: <ul style="list-style-type: none"> ○ Treatment of food, water and soil borne diseases at HCs and DHs; ○ Development of a food or water borne illness outbreak response plan and investigation procedures.
2.7 Impacts in food, nutrition and micronutrients related issues	<p>PAPS in the districts of Nakai, Gnommalat and Mahaxai</p> <p>In Khamkheut, Xebangfai, Nongbok and Xaybuli Districts (only for monitoring and Surveillance activities)</p>	<ul style="list-style-type: none"> ● Availability of a strengthened MOH’s National Maternal & Child Health program. ● Participation in Promotion and Prevention programs: <ul style="list-style-type: none"> ○ Health education and awareness on child weaning and child feeding practices (including the provision of IEC materials); ○ Strengthening of antenatal care for pregnant women; ○ Strengthening of national EPI program for pregnant women and children; ○ Encourage assisted births by a trained health worker and post natal care; ○ Growth monitoring programs for under fives; ○ Collaboration with local villagers to develop and promote alternate sources of sustainable protein to replace potential losses of fish as a staple in the local diet. ● Availability of Treatment and supplementary feeding programs: <ul style="list-style-type: none"> ○ Availability of appropriate education on malnutrition and micronutrient deficiencies in villages, HCs and DH. ● Provision of supplementary feeding programs using locally available food for antenatal mothers and preschool malnourished children.
2.8 Psychosocial disorders	In the districts of Nakai, Gnommalat and Mahaxai all activities will be supported	<ul style="list-style-type: none"> ● Participation in Health Education and Awareness program for preventable psychosocial disorders: <ul style="list-style-type: none"> ○ Information, education and communication in schools on substance abuses; ○ Information, education and communication on psychosocial problems for villages; ○ Prevention of uncertainties and stress through adequate information on the future through regular communication and consultation. ● Recognition of condition and availability of Treatment: <ul style="list-style-type: none"> ○ Recognition of psychosocial problems at village level by HC; ○ Recognition of psychosocial problems and limited treatment capacities at DH level and referral if required. ● Availability of adequate diagnostic and treatment capacity of referred cases for psychosocial problems at the Provincial Hospital, Thakhek.
2.9 Cultural Health Practices	All villages in the Project Areas	<ul style="list-style-type: none"> ● Promotion of cultural sensitivity and appropriate respect for minorities and traditional rituals among health centers and hospital staff. ● Provision of education and awareness programs congruent with ethno-medical frames of representing disease, cure and prevention. ● Ad hoc monitoring of the Traditional Health Practices and the availability of ingredients of traditional medicines in collaboration with the National Traditional Medical Research Center.

