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**MANAGEMENT REPORT AND RECOMMENDATION
IN RESPONSE TO THE
INSPECTION PANEL INVESTIGATION REPORT**

CAMBODIA

**LAND MANAGEMENT AND ADMINISTRATION PROJECT
(IDA CREDIT No. 3605-KH)**

January 21, 2011

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Pursuant to paragraph 23 of the Resolution Establishing the Inspection Panel (IBRD Resolution 93-10 and IDA Resolution 93-6), attached for consideration by Executive Directors is Management's Report and Recommendation in response to the findings set out in the Investigation Report No. 58016-KH, dated November 23, 2010, of the Inspection Panel on the Cambodia Land Management and Administration Project (IDA Credit No. 3605-KH).

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ABBREVIATIONS AND ACRONYMS

BABSEA	Bridges Across Borders South East Asia
BKL	Boeung Kak Lake
BP	Bank Policy
CAS	Country Assistance Strategy
CIDA	Canadian International Development Agency
CLEC	Community Legal Education Center
CLP	Council for Land Policy
COHRE	Centre on Housing Rights and Evictions
DCA	Development Credit Agreement
DFGG	Demand for Good Governance
DPM	Deputy Prime Minister
EMF	Environmental Management Framework
ERM	Enhanced Review Mission
ESG	Environmental and Social Guidelines
FY	Fiscal Year
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit
Ha	Hectare
IDA	International Development Association
INT	Department of Institutional Integrity
IPPF	Indigenous Peoples Planning Framework
ISN	Interim Strategy Note
JRSJ	Jesuit Refugee Service – Cambodia
JSDF	Japan Social Development Fund
LAMDP	Land Administration, Management and Distribution Program
LASED	Land Allocation for Social and Economic Development
LMAP	Land Management and Administration Project
LRT	Land Registration Team
M&E	Monitoring and Evaluation
MEF	Ministry of Economy and Finance
MLMUPC	Ministry of Land Management, Urban Planning and Construction
MPP	Municipality of Phnom Penh
MR	Management Response
MTR	Mid-term Review
NCC	National Cadastral Commission
NGO	Non-Governmental Organization
OD	Operational Directive
OP	Operational Policy
ORAF	Operational Risk Assessment Framework
PAD	Project Appraisal Document
PDO	Project Development Objective
PMO	Project Management Office
PRGO	Poverty Reduction and Growth Operation
RPF	Resettlement Policy Framework
RVP	Regional Vice President
SDR	Special Drawing Right
SLC	Social Land Concession
TOR	Terms of Reference
TWG-L	Technical Working Group on Land
UN	United Nations
UNCHS	United Nations Human Settlements Programme/Centre for Human Settlements (UN HABITAT)
UNDP	United Nations Development Programme
US\$	United States Dollars

EXECUTIVE SUMMARY

Land Sector: Challenges and Opportunities for Cambodia's Development

At the turn of the century, after 25 years of conflict, the land sector in Cambodia was considered one of the most challenging in the world: most land records had been destroyed; land disputes were numerous and there was little administrative capacity to rebuild the sector. The Bank recognized that securing land rights was a critical step to sustainable poverty reduction despite the challenges it entailed and, with other Development Partners, assisted the Government to develop a program to address land and resources tenure insecurity.¹

In 2002, the Bank approved an IDA Credit of US\$24.3 million equivalent to support the Land Management and Administration Project (LMAP) in Cambodia. LMAP was envisioned as the first phase of a 15-year program, with the objectives of improving land tenure security and promoting the development of efficient land markets. These objectives were to be achieved through: (a) the development of national policies, a regulatory framework and institutions for land administration; (b) the issuance and regulation of titles in rural and urban areas; and (c) the establishment of an efficient and transparent land administration system.

LMAP delivered a number of significant development benefits. More than 1.58 million land parcels were surveyed and 1.24 million titles distributed to beneficiaries, laying the foundations for improved access to credit while enabling increased collection of revenue from land taxes and transaction fees. LMAP also helped put in place key elements of the national policy and regulatory framework such as policies on social land concessions, economic land concessions and Indigenous People's land.

LMAP implementation also confronted significant challenges, primarily fiduciary and safeguards related. A Fiduciary Review uncovered fraud and corruption in seven Bank-financed projects, including LMAP. As a result, disbursements of the Credit were suspended from June 2006 to February 2007 and Management's attention became focused on fiduciary issues. From early 2009, Management realized that there was an apparent acceleration of evictions in Phnom Penh, and thus potential harm to Project-affected persons. On January 24, 2009, more than 100 families were evicted from the Dey Krahom area in central Phnom Penh. While this was not an LMAP area, the Bank called on the Government in meetings, via letters and through statements to put a moratorium on evictions until it finalized its national legal and policy framework for resettlement and improved dispute resolution. Notably, on July 16, 2009, the Bank issued a joint statement with Development Partners calling for a halt to evictions of Cambodia's urban poor.

Other actions were pursued by Management, including meetings with representatives of the communities and NGOs to hear concerns, active dialogue with authorities, and offers to help the Government finalize its policy and legal framework for resettlement, and to upgrade resettlement sites.

¹ World Bank support included analytical work, a development policy operation (land and natural resources management was one of the three main policy reform focus areas under the Poverty Reduction and Growth) and investment operations, i.e., LMAP (which also received funds from the Governments of Canada, Germany and Finland) and, later, the Land Allocation for Social and Economic Development (LASED) Project and the Demand for Good Governance (DFGG) Project (with Land Law dissemination activities).

On August 28, 2009, Management requested that the Government and the Bank should mutually suspend Project implementation to allow time to reach consensus on how best to address safeguards concerns. Instead, the Government requested the cancellation of the Credit on September 7, 2009. On September 4, 2009, the Inspection Panel received the Request for Inspection, which it registered on September 24, 2009.

The Boeung Kak Lake (BKL) Event and Management's 2009 Response

The Request for Inspection focused on events surrounding the denial of BKL residents' land claims and their forced resettlement from the BKL area located in central Phnom Penh. BKL is part of Sras Chok Commune, one of 232 communes in which LMAP engaged in systematic titling activities (so-called Adjudication Areas). Of the approximately 20,000 inhabitants who lived there, it is estimated that more than one half have been forced to move since August 2009. The Request for Inspection asserted that evictions from the BKL area were being carried out in violation of the agreed Resettlement Policy Framework (RPF) established under LMAP, and applicable to the eviction of people from State land in Project titling areas.

In its response on November 2, 2009 (the 2009 Response), Management concurred with the Requesters that the Government is obligated under the LMAP Credit Agreement to apply the RPF to displacements or threatened displacements from the BKL area. The 2009 Response observed that two series of events occurred concurrently. One arm of Government, the Project implementing agency, engaged in titling in the Sras Chok area from May 2006 to February 2007 (overlapping significantly with the 8-month Credit suspension), but proper procedures were not followed and residents in the villages immediately surrounding BKL were not given sufficient opportunity to present and defend their land claims. In parallel, from 2005 onwards, other parts of Government were pursuing private development of the BKL area, and the Municipality of Phnom Penh signed a 99-year lease for the BKL area with a private developer (Shukaku, Inc.) in February 2007.

Despite extensive discussions both before and after the Request registration, the Government did not agree with Management that the Project's RPF applies to the evictions of BKL residents. The 2009 Response acknowledged that Management itself did not see clearly the potential connection between specific land disputes and the Project's RPF until it reviewed the conclusions of the Enhanced Review Mission² it commissioned in the first half of 2009. Furthermore, reflecting on the complexity of the issue, in-country representatives of the Development Partners supporting LMAP have also expressed reservations about whether there is a link between the Project and BKL events. Nevertheless, in Management's view the RPF is sufficiently clear to conclude that it applies to the events that took place in the BKL area. However, it further acknowledged that there were ambiguities in the RPF and a lack of clarity and consistency in the Bank Team's understanding of its scope, and that these may have contributed to the different view of the Government.

The 2009 Response also recognized that there were several specific shortcomings in Project design and supervision. It reported on Management's engagement with Government on the issue of forced evictions prior to the Request registration. The Action Plan included in the 2009

² Enhanced Review Mission (ERM), Report dated July 2009. The mission took place before BKL events.

Response focused on deepening the dialogue with Government on the need to develop concrete actions for communities that were evicted and those that face involuntary resettlement.

Findings of the Panel and Management's Response

The Panel delivered its Investigation Report to the Board and to Management on November 23, 2010, in which it found non-compliance by the Bank with aspects of its policies on involuntary resettlement and on project appraisal and supervision. There are numerous areas of convergence between the 2009 Response and the Panel's Report. Among other points, the Panel reinforces Management's conclusions that: (a) the residents in the BKL area were denied access to due process of adjudication of their property claims, and were displaced in violation of the agreed policies for involuntary resettlement; (b) there are several ambiguities concerning the triggering and application of the RPF; (c) evictions are not limited to the BKL area or to LMAP Adjudication Areas; and (d) Management did not adequately follow up Project commitments to strengthen public awareness, community participation, dispute resolution mechanisms and State land management.

Both the 2009 Response and the Panel's Report concluded that the Requesters suffered serious harm or the threat of harm. The Panel and Management also agree that the benefits and protections provided to BKL residents by LMAP fell short of expectations and that Management was unable to prevent or mitigate the harm that occurred.

However, while concurring with the Panel regarding a number of significant Project shortcomings, Management considers it essential to characterize these shortcomings properly in terms of their relationship to the harm suffered by the residents of BKL. The cause of the harm or risk of harm suffered by the Requesters is eviction or threatened eviction from the BKL area. These evictions were carried out, and continue to be carried out, by the Municipality of Phnom Penh and the BKL area developer (neither of which is the Project implementing agency), based on the Government's assertion that the land in question is State land that has legitimately been leased to the developer and that the Requesters do not have possession rights. LMAP was not used by the Government as an instrument to assert or confirm ownership over the area. Instead, the Government maintains that its actions were outside the scope of the Project.

Furthermore, as shown by recent research, evictions from State land have also occurred in recent years in many other parts of Cambodia, to a similar extent within and outside Project provinces and LMAP Adjudication Areas. As in the case of BKL, Management has found no basis for concluding that evictions in other LMAP Adjudication Areas were facilitated by the presence of the Project as compared to evictions happening elsewhere. While Management continues to have grave concern for the BKL residents and the difficulties they face, in Management's view, based on the Government's continuing actions at BKL and elsewhere, it is reasonable to conclude that Bank failures neither created nor exacerbated a risk of eviction beyond the risk that would have existed in the absence of the Project.

Going Forward

Very limited progress has been made over the course of the past year on the Action Plan developed by Management in its 2009 Response. Some of the proposed actions have been

partially implemented. Other initiatives that Management has pursued to support affected communities have not received the support of Government to date, including: (a) undertaking a social impact assessment on the affected communities in the BKL area and in other Project provinces; (b) preparing a mitigation plan for poor and vulnerable affected groups and developing economic opportunities; (c) using other IDA credits to provide a set of protection measures to the affected people in line with what they would have received under the RPF; and (d) assisting Government efforts to evaluate options to mitigate adverse environmental impacts from the filling of BKL.

The most serious obstacle to Action Plan implementation has been the continued disagreement between Bank Management and the Government over the applicability of the Project's RPF to the evictions at BKL. Despite Management's sustained effort to discuss and agree with Government on this fundamental point, to date the Government has not recognized any link between the Project and BKL events.

Management agrees with the Panel that engagement on land issues in Cambodia is highly relevant to the country's development, and is consistent with the Government's long-term development vision and the Bank's overall mandate of poverty reduction. However, while the Panel states that it *"hopes that this Investigation Report will contribute to the start of a new engagement with the Government on the resolution of issues raised by the requesters,"* the current state of the dialogue with the Government on these issues has diminished the Bank's ability to facilitate solutions.

Given the current impasse, Management has limited options to mitigate the harm suffered by people in LMAP Adjudication Areas. At the same time, Management continues to believe that the priorities reflected in the Action Plan included in the 2009 Response remain valid. In view of this and based on the history of the last 15 months, Management considers that the most constructive way to support the affected residents of BKL is to move beyond further discussion of well-entrenched views. This would allow building on what Management believes should be a shared recognition with the Government and the Development Partners that the people in BKL have significant grievances that need to be addressed. Towards this end, Management proposes to pursue engagement at the highest level of Government with the objective of gaining support from the Government and the Development Partners: (a) to support affected communities in the BKL area in a manner that responds to their development and livelihood needs; and (b) to ensure that any communities that may be resettled in the future benefit from a resettlement policy that meets appropriate standards including recourse to fair and independent dispute resolution mechanisms. Until these objectives are reached, the Bank reiterates its call to halt further evictions, consistent with the Donor Statement and NGO Response of July 16, 2009.

Management proposes to report back to the Board on the implementation of the revised Action Plan within 60 days of the Board Discussion of this Management Report and Recommendation and prior to the presentation of an Interim Strategy Note (ISN) that will be prepared in lieu of a full Country Assistance Strategy. If there is continued lack of willingness to cooperate on addressing the BKL resettlement issue, Management would anticipate reviewing all current and proposed support to the Government in the land sector and would carefully take into account the Government's position in considering the magnitude and focus of future Bank support to Cambodia.

I. INTRODUCTION

1. On September 4, 2009, the Inspection Panel (hereafter referred as the Panel) received a Request for Inspection, IPN Request RQ 09/08 (the Request), concerning the Cambodia Land Management and Administration Project (the Project or LMAP) financed by the International Development Association (the Bank). The Request was submitted by the Centre on Housing Rights and Evictions (COHRE) on behalf of communities claiming to have been affected by the Project (the Requesters).
2. The Board of Executive Directors and the President of the Bank were notified by the Panel of receipt of the Request on September 24, 2009. Management responded to the claims in the Request on November 2, 2009 (the 2009 Response) and has continued to have constructive exchanges with the Panel since then.
3. Following a first mission to Cambodia from November 16-19, 2009, the Panel determined in its Report and Recommendation dated December 2, 2009, that the Request satisfied the eligibility criteria for an Inspection. The Panel recognized that Management was trying to establish a dialogue with the Royal Government of Cambodia and the Development Partners in order to address the concerns of the Requesters and had proposed an Action Plan. On this basis, the Panel recommended that it would refrain from issuing a decision at that time on whether an investigation was warranted in order to allow the dialogue to proceed. The Board of Executive Directors approved the Panel's recommendation on December 16, 2009.
4. In its Final Eligibility Report and Recommendation of March 31, 2010, the Panel noted that no progress had been made in implementing the specific actions to ensure that the communities that had been resettled from the Boeung Kak Lake (BKL) area would be supported in accordance with the Resettlement Policy Framework (RPF), and, after discussing the issue with Management, recommended to the Board that it approve an Investigation of the claims and matters raised in the Request. The Board approved this recommendation on April 13, 2010.
5. A Panel team visited Cambodia from May 22-29, 2010 and on November 23, 2010 the Panel issued its Investigation Report.
6. This Management Report and Recommendation responds to the findings of the Panel's Investigation Report. The Report is organized in eight sections. Following this Introduction, Section II describes the Project. Section III briefly summarizes Management's 2009 Response to the Request. Section IV summarizes the findings of the Panel. Section V discusses issues which deserve special attention. Section VI presents some key lessons learned. Section VII lays out Management's Action Plan in response to the Panel's findings. Section VIII contains the conclusion. For ease of reference, the Panel's findings and Management's responses are described in detail in matrix format in Annex 1.

II. THE PROJECT

7. In 2002, the Board approved a Credit in the amount of SDR19.3 million (US\$24.3 million equivalent) to support the LMAP, the first phase of the Government's long-term plan to build a modern land management sector and implement its Land Administration, Management and Distribution Program (LAMDP). Three Development Partners (Canada, Finland and Germany) also provided co-financing or parallel financing to the Project. The goals of the LAMDP were: (a) to strengthen land tenure security and land markets; (b) to manage land and natural resources in an equitable, sustainable and efficient manner; and (c) to promote land distribution with equity.

8. **Objectives.** The Project's development objectives (PDOs) were to improve land tenure security and to promote the development of efficient land markets, corresponding to goal (a) of the LAMDP. The PDOs, which remained unchanged throughout the life of the Project, were to be achieved through: (a) the development of adequate national policies, a regulatory framework, and institutions for land administration; (b) the issuance and regulation of titles in rural and urban areas; and (c) the establishment of an efficient and transparent land administration system.

9. **Description.** The Project, initially designed to be implemented in eleven provinces and municipalities (see [Map 1](#)), had five components:

- **Component 1: The development of land policy and a regulatory framework** (total cost US\$2.8 million, of which IDA US\$1.8 million). The component was designed to support the formulation of policies for land administration, management and distribution through: (a) the development of the capacity of the secretariat of the Council for Land Policy (CLP) in policy analysis and development; (b) the formulation of key policies in the areas of land management, administration and distribution; (c) the drafting of sub-decrees for the implementation of the 2001 Land Law and other legal instruments needed to implement the Project; and (d) the dissemination of policies, laws and procedures.
- **Component 2: Institutional development** (total cost US\$6.4 million, of which IDA US\$3.7 million). The component was designed to provide support to four main areas: (a) the long-term institutional development of the Ministry of Land Management, Urban Planning and Construction (MLMUPC); (b) project management to implement the Project; (c) the creation of a land management and administration education program in an established university; and (d) the development of the private surveying industry.
- **Component 3: A land titling program and the development of a land registration system** (total cost US\$20.4 million, of which IDA US\$16.7 million). The component's purpose was to support the issuance of first-time land titles and the establishment of a land registration system to register land transactions, to include: (a) information dissemination and community organization; (b) a systematic land titling program; (c) a sporadic land titling program; and (d) the development of an efficient, transparent and effective land registration system.
- **Component 4: The strengthening of mechanisms for the resolution of land disputes** (total cost US\$1.7 million, of which IDA US\$1.0 million). The component was designed to strengthen the resolution of disputes by the MLMUPC as an element in the provision

of tenure security in the titling process. The component's purpose was to build the institutional capacity of the National Cadastral Commission (NCC) and Cadastral Commissions at provincial (and, in some cases, district) level through the provision of technical assistance, office equipment, maps, training, public education and vehicles. Because parties bringing disputes before the Commissions were expected to have different financial resources, the component was also designed to contract national non-governmental organizations (NGOs) to provide legal aid services to the poor and disadvantaged in land disputes.

- **Component 5: Land management** (total cost US\$2.6 million, of which IDA US\$1.1 million). Before the Project, there were no maps showing the different classes of land tenure and land use arrangements. The purpose of the component was to support the MLMUPC in preparing land use and classification maps in the Project provinces through: (a) the clarification of procedures for the definition of different classes of land (such as forest land, protected area land, private land, State Public and Private Land, and others); (b) the procurement of aerial photographs and satellite images, as needed; and (c) the preparation of land classification maps for each of the Project provinces (e.g., showing the boundaries of forests, protected areas, and land under private, public and concession use).

10. **Resettlement under the Project.** The Project Appraisal Document (PAD) stated that no eviction, involuntary resettlement or land acquisition was anticipated under the Project. Nevertheless, the Development Credit Agreement (DCA) provided that the Project had to be carried out in accordance with Environmental and Social Guidelines (ESG) including a RPF that would be triggered in the case of “*evictions from state land (...) under Parts C (b) and (c) of the Project*” (i.e., those relating to systematic and sporadic titling). The RPF, agreed with the Government and referenced in the DCA, states that its provisions would apply, *inter alia*, to people negatively impacted by “*the eviction from State land of individuals who had occupied it prior to August 30, 2001, the date of the enactment of the 2001 Land Law, following titling of such land in the name of the State.*”

11. **Implementation Arrangements.** The MLMUPC was responsible for overall Project implementation and a Project Management Office (PMO), headed by a Project Director, was established within the MLMUPC to coordinate Project activities. The Project Director reported to the Senior Minister, MLMUPC on matters of Project implementation and to the CLP through its General Secretariat when seeking policy guidance. In accordance with Sub-decree No. 46, dated May 31, 2002, *Procedures to Establish Cadastral Index Map and Land Register*, the Provincial/Municipal Governor (under the Ministry of Interior) was responsible for the declaration of an Adjudication Area which launched the process of systematic land titling in that Area. Following such declaration and the formation of an Administrative Commission, it was possible for Project-supported Land Registration Teams (LTRs) to enter and begin the process of training, information gathering and raising public awareness in preparation for land titling. Disputes that arose during the titling process were to be resolved at field level to the extent possible or be referred to the NCC if local efforts were unsuccessful.

12. **Project Status.** The revised Closing Date of the Credit was December 31, 2009. As a result of the disagreement between the Bank and the Government concerning resettlement

(described in Section III, below), and specifically in the context of the BKL area, the remaining balance of the Credit was cancelled at the request of the Government which was made on September 7, 2009. Full documentation for the Designated Account was received by the Bank on September 16, 2010, and the remaining undisbursed balance of the Credit (SDR6.16 million, US\$9.40 million equivalent) was cancelled. At the time of the cancellation, SDR12.95 million (US\$19.78 million equivalent) had been disbursed, approximately 67 percent of the original Credit amount. Associated trust funds, from the Canadian International Development Agency (CIDA), with cross cancellation clauses were also closed.

III. SUMMARY OF MANAGEMENT'S 2009 RESPONSE

Project Context

13. Cambodia has one of the highest levels of natural resource endowment *per capita* in Southeast Asia in terms of arable land, forest, fisheries and water resources. At the same time, it has one of the highest poverty rates in the region. Cambodia has always been a predominantly agrarian society; more than 70 percent of the population and a higher percentage of the poor are engaged in agriculture, and subsistence consumption absorbs 60-65 percent of agricultural output.

14. **Cambodia's Rapid Recovery.** The Khmer Rouge regime (1975-1979) took a heavy toll on Cambodia: it treated the population savagely, executing those it considered to be its enemies and brutally enforcing its policies by overworking and abusing its own people. Since the final capitulation of the Khmer Rouge in 1998, Cambodia has enjoyed peace and stability. It more than doubled its annual *per capita* income, from US\$310 in 1997 to US\$640 in 2008.¹ This growth was accompanied by a profound structural transformation of the economy including global integration, a shift of jobs from agriculture to manufacturing, a demographic transition, and population migration from rural to urban areas. This process led to a significant reduction in poverty, from an estimated 45-50 percent in 1993-94 to 30 percent in 2007. Many other social indicators confirm the improvements in welfare, particularly in health and education.

15. **Growth Brings New Opportunities and Challenges.** Improving economic conditions have attracted foreign direct investment and resulted in sharp increases in land prices over the past decade. Rapid economic growth has created new opportunities but has also brought development challenges as investments in the natural resources sector have had an impact on the access to natural resources for neighboring poor communities. Management's efforts to address broader causes of land and resource tenure insecurity became a focus of discussion in the Natural Resources Management pillar of the Cambodia Poverty Reduction and Growth Operation (PRGO) series and have been supported through a number of investment operations including LMAP and later the Land Allocation for Social and Economic Development (LASED) Project²

¹ GNI per capita income, based on the World Bank Atlas Method.

² LASED is a US\$8.7 million grant and US\$2.8 million credit approved by the Board in May 2008, and effective since September 2008 (Closing Date of June 2013). LASED is also supported with recipient-executed trust funds (US\$0.3 million) and German TA support (€3 million). LASED is expected to improve the process for identification and use of State lands transferred to eligible, poor and formerly landless or land-poor recipients that are selected through a transparent and well-targeted process. To date (December 2010) LASED has

and the Demand for Good Governance (DFGG) Project (with a natural resources management theme under the non-State actor component and Land Law dissemination under the State actor component).

16. Support to Build a Modern Land Management Sector. In 2002, the Bank approved a Credit for LMAP with the goal of supporting the first phase of the Government’s long-term plan to build a modern land management sector. After 25 years of conflict, the land sector in Cambodia was considered one of the most challenging in the world: most land records had been destroyed, there were numerous land disputes, and there was little capacity in the administration with which to rebuild the sector. The Government established the legal framework by passing a new Land Law in 2001 with the full endorsement of civil society and the international development community.

17. Focus on Fiduciary Risk. The Project was a risky undertaking in an environment with significant governance challenges. Disbursements from the Credit were suspended from June 2006 to February 2007 following a Fiduciary Review,³ in which evidence of fraud and corruption was uncovered in seven projects, including LMAP. Until late 2008, Management tended to focus its attention on such fiduciary concerns, which include overpayments to LRTs and excessive delays in title delivery. These concerns, and efforts to identify the causes and remedies, became a major source of discussion within the Task Team, among donors and between the Team and MLMUPC counterparts.

18. NGOs Raise LMAP Design Concerns. In November 2008, the Task Team learned that several NGOs working together on land tenure issues in Cambodia were raising concerns about the design of LMAP and were preparing a critical report. The Team contacted these NGOs and initiated a discussion on the design of a proposed second phase of LMAP including ways to improve the level of protection for the poorest and most tenure insecure. By letter of January 12, 2009, the NGOs asked the Task Team for information on the adjudication status in the “Boeung Kok area of Phnom Penh” without reference to Boeung Kak Lake or Sras Chok Commune. The Task Team provided the NGOs with the adjudication status for all Project provinces and verified internally that title deliveries in both Boeung Kak 1 and Boeung Kak 2 Communes (directly west of the BKL development area in Sras Chok Commune) were within expected norms. At the request of the NGOs, the Task Team arranged a meeting with the Technical Working Group on Land (TWG-L) on January 20, 2009. In this meeting, NGOs asserted that poor and vulnerable communities – particularly in urban areas – were at a disadvantage to obtain land titles and should receive specific support through the Project.

delivered livelihood and investment support services covering a total of 6,849 registered hectares in five communes benefiting 1,254 land recipients (against targets of 10,000 hectares; 20 communes; 3,000 recipients).

³ Between July 2004 and September 2005, Management undertook a Fiduciary Review jointly with the assistance of the Government and with the Bank’s Department of Institutional Integrity (INT). Following the Review, INT independent investigations uncovered evidence of corruption, collusion and fraudulent practices in 49 contracts in seven Bank-financed projects (of which four, including the Project, were under implementation and three were already closed at the time of the investigation). There were 12 active projects in the portfolio and three projects were ultimately suspended (25 percent of the active portfolio). The results of this investigation were transmitted to the Region in May 2006.

19. **Violent evictions in central Phnom Penh.** In the early morning of January 24, 2009, armed police forcibly evicted residents from a poor urban settlement in Phnom Penh known as Dey Krahor and within a few weeks Management was approached by an NGO raising concerns about threats of eviction in a neighboring community, “Group 78” (see [Map 2](#)). Neither of these communities was in an LMAP Adjudication Area. Nevertheless, once Management realized that there was an apparent acceleration of evictions in Phnom Penh, and thus potential harm to Project-affected persons, it reacted promptly. Management organized a series of internal discussions with all relevant units and decided to undertake an independent Enhanced Review Mission (ERM)⁴ to ensure that there was a clear understanding of Project-related obligations. Management also arranged a series of discussions with Government counterparts, NGOs and Development Partners.

Boeung Kak Lake Residents and Resettlement

20. The BKL case and the events surrounding the denial of residents’ land claims and involuntary resettlement from the BKL area were described in detail in the 2009 Response (paragraphs 48-56; see also [Annex 4](#) of this Report). As these events are the central focus of the Request and the Panel’s Report, they are summarized here for reference. The BKL area is a 133 ha site located in central Phnom Penh, in Sras Chok Commune, that originally consisted of a 90 ha lake surrounded by approximately 43 ha of land (see [Map 3](#)). The area was densely settled and was home to approximately 20,000 people and a number of inexpensive hotels, restaurants and bars that catered to low budget international travelers.

21. **Titling procedures started in May 2006 were not completed in the BKL area.** Sras Chok Commune, of which the BKL area is a part, was declared a LMAP Adjudication Area in 2006. The demarcation (gathering of survey data in relation to parcels of land) in the area was carried out under the Project between May 2006 and January 2007. The public display of the results of demarcation is recorded as having occurred between January 4 and February 2, 2007. Management understands that: (a) local authorities claimed during the adjudication process that the BKL area was State Public Land and that residents were therefore ineligible for titling; (b) information on individual claims in the BKL area was not collected during the field survey; (c) only village boundaries were demarcated in the cadastral map of the BKL area; and (d) these were recorded as parcels in the cadastral record with “unknown”⁵ ownership.

22. **Negotiations between the Government and a private developer had started in 2005.** Despite assertions that the land in question was State Public Land, and hence could not be claimed through legal possession by residents, plans for private development of the BKL area were well advanced prior to the declaration of the area as an Adjudication Area. Copies of

⁴ Management requested a Lead Counsel from the Environmental and International Law Unit (LEGEN), and a Senior Social Scientist (former Bank Staff) to undertake an ERM to Cambodia in late March 2009 (see full ERM Report in Annex 3 of the 2009 Response), before the BKL events and the first eviction notices which were issued in August 2009.

⁵ “Unknown” is the classification that is generally used when State Public Land is encountered during the titling process as well as when land is subject to a dispute that cannot be resolved at the field level during systematic titling.

official letters⁶ indicate that the Government had already approved “in principle” the development of the BKL area in accordance with the Shukaku⁷ master plan in August 2005 (nine months prior to the declaration of the Adjudication Area). A further letter from the Government to the Governor of Phnom Penh, dated January 2006 (also prior to the declaration of Sras Chok as an Adjudication Area), indicates that the Government “agree[d] with” the Shukaku development, understanding that the proposal would involve the filling of all but ten hectares of BKL as well as dealing with the issue of “anarchic” settlements in the area. Final approval for the development appears to have been granted by the Prime Minister on January 25, 2007, with the MPP being sent authorization to sign the lease with Shukaku on January 30, 2007 (subsequent to the declaration of Sras Chok as an Adjudication Area but prior to completion of the titling process).

Box 1. Steps in the Land Adjudication Process

The procedures to be followed in systematic Adjudication Areas are set forth in Sub-Decree 46/2002. These procedures require *inter alia*:

1. a **public “opening meeting”** at the beginning of the process to explain the procedures, clarify legal matters and answer questions;
2. a **demarcation process** by which the boundaries of each parcel are demarcated with the participation of owners or holders of that parcel and its neighbors;
3. the inclusion of the demarcated parcels in a **cadastral map**;
4. an **investigation and recording** of the rights associated with each parcel in the adjudication record based on all available evidence, including oral information;
5. a **public display** period for people to view the maps of adjudicated parcels; and
6. an **opportunity to present objections and the resolution of disputes** by a local Cadastral Commission and, if disputes cannot be settled at that level, by the National Cadastral Commission.

23. **A lease was signed in February 2007.** Based on copies of official documents shared informally with the Bank and press reports, Management became aware, while preparing the 2009 Response, that MPP had signed a lease for the BKL area for 99 years with Shukaku in February 2007. According to the 2001 Land Law, State Public Land can only be subject to short, temporary occupation and use (Article 16). Sub-Decree 129 on *Rules and Procedure on Reclassification of State Public Properties and Public Entities* (2006) further clarifies that leasing of State public property must not exceed 15 years and must not damage the property or change its function in providing public utility.

24. **In August 2008, the Government issued a Sub-Decree to convert the area from State Public Land to State Private Land**, more than a year after the lease had been signed. The 2001

⁶ Management was not copied on the referenced correspondence but received and reviewed informally shared copies of these official letters during the preparation of the 2009 Response.

⁷ Shukaku Inc. is the development company that leased the BKL area from the Municipality of Phnom Penh (MPP) in February 2007.

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

25. **Formal eviction notices were first delivered to Villages 2 and 4 in August 2009, and the most recent eviction notices were given to residents in Villages 22 and 24 in November 2010.** Of the approximately 20,000 people who lived in the BKL area, it is estimated that half have already been resettled or forced to move due to site preparation activities and associated flooding since the developer began operations in the area in August 2008.

Summary of Management Conclusions in the 2009 Response

26. **In the 2009 Response, Management concluded that proper procedures were not followed in the adjudication of the Sras Chok commune.** Based on available information, Management stated its belief that residents in the Adjudication Area of BKL were not given a sufficient opportunity to present claims regarding their possession of the land and to have those claims adjudicated in accordance with prescribed procedures (see Box 1 above). There was to Management’s knowledge no evidence that residents were directed to dispute resolution mechanisms that would have allowed them to contest the conclusions set forth in the adjudication record.

27. **Management further concluded (and the Panel has subsequently agreed with this conclusion) that the Borrower is obligated to apply the RPF to displacements or threatened displacements from the Sras Chok Adjudication Area.** Management noted that the Government does not believe that the BKL site meets the criteria for triggering the RPF, specifically, that no titles have been issued in the name of the State. As a consequence, resettlement from the BKL area has been taking place without reference to the RPF. Management acknowledged that a lack of specificity in Project documents and the absence of detailed discussions about the reach of the RPF may have contributed to subsequent differing interpretations regarding the Government’s obligations.

28. **Management also recognized that there were a number of specific shortcomings in Project design and supervision, some of which were subsequently raised by the Requesters.** There was significant Task Team engagement but the repeated attempts during the life of the Project to hire NGOs to support Public Awareness and Community Participation and to provide Legal Assistance remained unsuccessful, in part because of low levels of trust between Government and NGOs and procurement delays. Management noted that only partial progress was made in the area of State Land Management (Component 5).

29. **Management came to the conclusion that both the design and supervision of safeguards instruments under the Project should have been more robust.** While understanding that Project supervision after the lifting of the suspension of disbursements had focused too narrowly on fiduciary aspects and the delivery of land titles, Management also found that it should have engaged more intensively with the Government regarding the dispute resolution mechanisms that were being supported under the Project and on how to respond to rapidly changing circumstances (e.g., the unanticipated exponential growth of land values and resulting land conflicts in Phnom Penh).

30. Despite its inability to reach agreement with the Government on the applicability of the RPF to BKL, Management committed to continue to engage the Government and other Development Partners in finding ways to address the needs of BKL residents. In this regard, an Action Plan was proposed in the 2009 Response. However, Management recognized that this could only be accomplished with the support of the Government.

31. Management remains deeply concerned about the difficulties faced by BKL residents including the conditions created by the developer's pumping of sand into the lake and associated damage to

Requesters' homes and livelihoods, as illustrated in the local English language media (see Box 2). Management has met several times with Requesters and their representatives in an effort to understand the developing situation and to be better able to reflect Requesters' needs and views in its continuing dialogue with the Government.



IV. FINDINGS OF THE PANEL

32. The Panel's findings are organized according to the five main claims of the Requesters:

- The claim that the events in the BKL area are linked to the Project;
- The claim that residents of the BKL area were denied adjudication of their property claims under the Project;
- The claim that residents of the BKL area were displaced in violation of the agreed policy framework for involuntary resettlement;
- The claim that the titling process adopted by the Project weakened pre-existing tenure rights; and
- The claim that other communities in Project provinces also experienced forced evictions.

33. **Relevant Bank Policies.** With respect to this Project, the Panel found that the Bank was not in compliance with the following policies and procedures regarding the issues raised in the Request:

OMS 2.20	Project Appraisal
OD 4.30	Involuntary Resettlement
OP/BP 13.05	Project Supervision

34. **Findings.** Management appreciates the Panel's observations that the 2009 Response presented a frank and detailed assessment of issues arising from the Request, including those related to compliance with Bank policies. A complete and detailed presentation of the Panel's findings is set out in Annex 1, with Management's comments and clarifications.

V. SPECIAL ISSUES

35. Management considers the Panel's Report to be helpful in terms of sharpening and confirming Management's own assessment in the 2009 Response of a number of Project shortcomings. In particular, the Panel reinforces Management's conclusions that:

- The residents in the BKL area were denied access to due process of adjudication of their property claims;
- The residents in the BKL area were displaced in violation of the agreed policies for involuntary resettlement;
- There are several ambiguities concerning the triggering and application of the RPF;
- Evictions are not limited to the BKL area; and
- Management did not adequately follow up Project commitments to strengthen public awareness and community participation, to ensure legal protection to residents exposed to risk of eviction and to provide adequate access to dispute resolution mechanisms, nor did it adequately address issues related to State land management.

36. In this Section, Management offers its observations on the following issues related to the Project, Management's actions following its 2009 Response and the Panel's investigation:

- Project development benefits;
- Implementation of the 2009 Management Action Plan;
- Other potential cases in LMAP Adjudication Areas, outside BKL;
- Design and appraisal issues;
- Implementation and supervision issues; and
- Cause of harm suffered by the Requesters.

The Project Delivered Significant Development Benefits

37. **Management appreciates the Panel's observation that the Project had some significant successes.** Although the Project did not achieve all it set out to do, it nonetheless delivered a number of significant results. It is important to emphasize that the Project was intended to support, and to be the first phase of, a long-term program of land titling and management. In such a complex project, some shortcomings should have been anticipated but with the Government, the Bank and the Development Partners working in harmony, most if not all of the deficiencies would have been resolved in a series of operations. Experience has shown that long-term success in land-related projects is measured in decades. Key results are summarized in the next paragraphs and presented in more detail in [Annex 3](#).

38. **In terms of institutional development,** the Project established and operated key administrative functions for land titling within the MLMUPC. In the development of land policy and a regulatory framework, it supported formulation of policies and regulations necessary for the implementation of all three pillars of the Government's long-term LAMDP, including systematic titling, sporadic titling, the Cadastral Commission, State land management, economic land concessions, social land concessions and titling of indigenous lands.

39. **With respect to land titling and development of a land registration system,** by September 2009 more than 1.58 million land parcels had been surveyed and 1.24 million titles distributed to beneficiaries, 92 percent of which were in rural areas, where a higher percentage of the poor live. This represents a very significant achievement for the LRTs and the Implementing Agency, which had very limited capacity prior to the Project. In a Beneficiary Assessment carried out in 2006, nearly half of the respondents (46 percent) claimed access to credit as the key benefit that could be derived from land titling. The Project also enabled the increased collection of revenue from both land taxes and transaction fees, and the additional revenue collected between 2004 and 2007 exceeded the amount borrowed under the IDA Credit.

40. **In strengthening mechanisms for dispute resolution,** the Project helped to establish the NCC and to create provincial and district-level commissions for mediating land disputes. The provision of legal assistance for the disadvantaged was piloted with German technical assistance (GTZ) support, but the Project was not successful in recruiting NGOs to continue this work.

41. **With respect to land management,** the key results were the development of procedures for land classification and the procurement of aerial photographs needed to support land classification and land titling. The Project helped to put in place key elements of the policy and regulatory framework for State land management and administration, including national policies on Social Land Concessions (in 2003), State Land Management (2004), Economic Land Concessions (2005) and Indigenous People's Land (2009), but the implementation of State land mapping and related processes was limited to pilot operations. While the development of this legal framework is considered an achievement, Management notes that implementation under the new law and regulations has been uneven.

42. **Because of a weak Results Framework defined in the PAD, achievements against the PDOs are difficult to assess.** In the absence of relevant baseline data or a defined methodology

for collecting data, the improvement in land tenure security is difficult to assess. As noted earlier, the 2006 Beneficiary Assessment showed an increase in land transactions and the MLMUPC reported an increase in tax and fee collection for the period 2004-2007, both indicators of an improvement in the land market.

Limited Progress in Implementation of the 2009 Management Action Plan

43. **In its 2009 Response, Management put forward a detailed Action Plan intended to help mitigate the harm suffered by BKL residents and to address other issues arising from the Request.** These actions were grouped into three categories: (a) supporting the communities that were affected; (b) supporting improvements in resettlement policy and land dispute resolution for the benefit of all communities at risk; and (c) learning the lessons. The table in [Annex 2](#) describes the proposed actions and the present status of their implementation.

44. **Despite efforts by Management and a continuing dialogue with the Government on various aspects of the Action Plan, progress has been very limited to date.** Some of the proposed actions have been partially implemented:

- **Actions supporting policy developments**, including passage of: (a) a Law on Expropriation (January 2010); and (b) a Circular on Resolution of Illegal Temporary Settlements in City and Urban Areas (Circular No. 3; May 2010) following consultation with stakeholders. The Government has also drafted a Housing Policy and sought public input on the draft. To date, however, these policy developments have had only a limited impact on the ways in which the Government is dealing with communities like those in BKL and concerns exist that Circular No. 3 is not being fully implemented.⁸
- **Actions supporting the dissemination of the Land Law** including the funding, under the DFGG Project, of a Land Law dissemination pilot in one district in Kampot Province, with a national media campaign and further local dissemination efforts to be launched in 2011.
- **Additional actions addressing tenure issues in vulnerable communities**, including the preparation of two Japan Social Development Fund (JSDF) proposals on: (a) Indigenous People's access to land and natural resources; and (b) vulnerable urban communities.
- **Research has been conducted** to identify land disputes, outside of the BKL area, which overlap with LMAP Adjudication Areas. The results of this research are summarized in the next section and in [Annex 7](#).

45. **Unfortunately, there has been virtually no progress on the most significant proposed actions.** These are the actions designed to address the consequences of evictions in Project areas, and more specifically in the BKL area, and which can only be accomplished with the agreement and full cooperation of the Government. Management has attempted to pursue several initiatives to support the communities that have been affected, including: (a) undertaking a social impact assessment on the affected communities in the BKL area and in other Project provinces; (b) preparing a plan that would ensure that negative impacts, particularly on poor and

⁸ Government has only recently initiated the capacity building required to implement the new Circular.

vulnerable affected groups, are mitigated and that economic opportunities are developed; (c) offering the possibility of using other IDA credits for the purpose of providing a set of protection measures to the affected people in line with what they would have received under the RPF; and (d) offering to assist in designing and commissioning of additional investigations or studies to evaluate options to mitigate adverse environmental impacts from the filling of the BKL. To date, the Government has not agreed to proceed with these initiatives.

46. **The primary obstacle to implementation of the Action Plan has been the continued and fundamental disagreement between Bank Management and the Government over the applicability of the Project's RPF to the evictions at BKL.** The Government has consistently taken the view that the RPF does not apply to BKL because the disputed land has not been "titled in the name of the State" as specified in the relevant RPF trigger. Management has carefully considered Government's position but argues that the actions taken by the MPP to lease the area demonstrate a *de facto* decision that BKL is State land. Not applying the RPF simply because no formal title was issued in the name of the State is contrary to the spirit and intention of the RPF and leaves BKL residents without any formal mechanism to mitigate the harms they have suffered. Despite substantial efforts to discuss and agree with Government on this fundamental point, to date the Government do not recognize the link between the Project and BKL events. Government is therefore reluctant to accept Bank support to assist BKL communities because this could be interpreted as acceptance of the linkage. Management in its 2009 Response noted that there were ambiguities in the RPF and a lack of clarity and consistency in the Bank Team's own understanding of its ambit, and that these may have contributed to the different understandings by the Government. Furthermore, reflecting the complexity of the issue, in-country representatives of the Development Partners supporting LMAP have also expressed reservations about whether there is a link between the Project and BKL events. Nevertheless, in Management's view, the intent of the RPF is sufficiently clear to conclude that it applies to the events that took place at BKL, a position confirmed by the Panel in its Report.

Management's Identification of other LMAP Adjudication Areas from which Evictions Have Occurred or Are Threatened

47. **The Management Action Plan includes an undertaking to identify other Project areas where Management believes that the RFP should have been applied.** This involved efforts to identify "other potential cases of communities that were resettled or evicted or are threatened with resettlement or eviction from Adjudication Areas without proper compliance with administrative procedures or implementation of the RPF." Management reports in detail on the results of this work in [Annex 7](#). To summarize the key findings:

- LMAP supported systematic titling in 232 communes through September 2009;
- Management has identified 234 communes in which current land disputes are reported (in the media or by NGOs), out of which 31 overlap LMAP Adjudication Areas;
- Broken down to the level of households, this research has identified an estimated 8,448 households (in addition to approximately 4,000 in the BKL area) falling into the broad category of reported evictions, pending evictions or other multi-party land disputes in communes where LMAP systematic titling was active; and

- Preliminary results suggest that the percentage of communes in which evictions, pending evictions and multi-party land disputes are reported by NGOs or the media is virtually the same in non-LMAP areas (14.6 percent of communes) as in LMAP areas (13.4 percent of communes). While evictions have occurred in a range of contexts and for a range of reasons in both LMAP and non-LMAP communes, the presence of LMAP in a commune does not appear to influence the incidence of evictions.

48. In short, Management has collected a significant amount of data related to areas other than BKL where the RPF might apply. However, for the reasons already described concerning lack of progress on the overall Action Plan, Management has thus far not been in a position to act upon this information or work with the Government to ensure proper implementation of steps to assist the affected people in these communities. Management has recently shared the information on incidence of evictions in Cambodia (inside and outside LMAP Adjudication Areas) with the Government and the in-country representatives of the Development Partners and, consistent with the proposed Action Plan, Management will continue to offer support for initiatives that respond to the needs of tenure insecure and recently resettled communities, especially those living in or coming from LMAP Adjudication Areas.

Issues concerning Project Design and Appraisal

49. In its 2009 Response, Management recognized that there were a number of issues in the Project's design that could have been better resolved during preparation or appraisal. While noting that OMS 2.20 on Project Appraisal was not referred to in the Request for Inspection, and therefore was not discussed in the 2009 Response, Management would like to address the issues of project design that were raised by the Panel in its Report.

50. **The Panel finds that design flaws in the Project led to the arbitrary exclusion of land from the titling process** and that this denied residents the opportunity to formalize their rights through the adjudication process under the Project. Management would like to emphasize that it was not the intent of the Project design to exclude areas subject to dispute from titling. It was recognized that the process of adjudication of titles is virtually certain to encounter disputes; whatever problems were subsequently encountered in implementation, the Project was designed to address disputes, either in the field or through dispute resolution mechanisms.

51. The vision of the Land Law and the LAMDP, of which the Project was the first phase, was eventually to cover the entire country. As noted in the 2009 Response, the Project was designed to be implemented sequentially, working first in selected Adjudication Areas and then moving on to others. LMAP Adjudication Areas were typically entire communes, and their selection was based on decisions made at the local government level. The Project was not expected to cover all communes within the Project provinces. In determining where to target Project activities, given the limited resources and the need to build capacity in a weak institution, it was in Management's view a reasonable exercise of judgment to start the process in areas where the level of disputes was relatively low. The selection of Adjudication Areas, however, did not represent an exclusion of those areas that were not selected; systematic titling was intended eventually to cover the whole country over the course of 15 years.

52. In Management’s view, it is important to distinguish between a decision on whether or not to declare an Adjudication Area and a failure, once such an Area has been declared, to carry out the adjudication process in accordance with the required procedures (including referrals to dispute resolution mechanisms). It was the latter that occurred at BKL. There are no references in the Project documents to excluding households or plots from the systematic titling process on the basis that they are involved in disputes; both the Project documents and Cambodian law provide for such disputes to be resolved through systematic titling and its associated dispute resolution processes.

53. **The Panel observes that the primary objective of the Project was to determine the legality of any claims to land** and that even people who *prima facie* seem to be illegally occupying land are entitled to proper adjudication of their claims. Management concurs with the Panel’s observation that this was a central focus of the Project, but would like to emphasize that, in its view, Project design was consistent with this observation. References in Project documentation to the Project “*not supporting the regularization of informal settlements*” did not imply that the Project was designed to exclude peoples’ claims on the basis of an *a priori* judgment that they were “informal” or “squatters.” Instead, these references are grounded in the fact that, if a person was legitimately determined to be an informal settler (either through adjudication or through classification of land as State Public Land), the Project would not be able to issue a title unless and until the Government decided to allocate the land to that person. There is a distinction between land titling operations (which clarify and reflect the existing legal rights of people) and the regularization of informal settlements (which upgrades people’s rights): the Project was designed for the former, not the latter (see 2009 Response, paragraph 36).

54. **The Panel finds that although the risks associated with the Project were properly identified, the proposed mitigation measures were deficient.** Three of the risks identified in the PAD⁹ did indeed materialize (see 2009 Response, paragraph 34). Management recognizes that the risk mitigation measures proposed were not sufficiently robust to deal with these risks, especially in light of their significant exacerbation as the situation in the land sector changed dramatically during Project implementation, in particular in Phnom Penh. Management has also recognized that the PAD assertion that the risk of not reaching agreement on the process of land classification could be overcome by supporting a “*consultation process to build broad consensus for decisions*” and “*technical assistance to the Council for Land Policy to reach consensus among the various government agencies...*” was unrealistic. With the benefit of hindsight, Management recognizes that “... *a more detailed analysis of the political economy context would likely have identified this view as overly optimistic and that: (a) success in this respect depended on high-level inter-agency coordination; (b) consultation would not necessarily lead to consensus; and (c) numerous actors had strong incentives not to proceed with a transparent and public interest based classification and registration of State land.*”

⁹ (a) that governance does not improve; (b) that Government lacks commitment to ensuring the functioning of the dispute resolution mechanism; and (c) that Government entities and other stakeholders are not able to reach agreement on the process of land classification.

Issues concerning Project Implementation and Supervision

55. **In its 2009 Response, Management recognized that there were a number of specific shortcomings in Project supervision.** Management found that Project supervision, in the aftermath of the 2006 Fiduciary Review conducted by INT, had focused too narrowly on fiduciary aspects and the delivery of land titles, and recognized that some activities were only partially implemented. Despite significant Task Team engagement, repeated attempts to hire NGOs to support Public Awareness and Community Participation (Sub-component 3.a) and to provide Legal Assistance (Sub-component 4.c) remained unsuccessful. Government's inability to hire NGOs was attributable to various causes: low levels of trust between Government and NGOs and procurement delays (see also Lessons Learned, Section VI). Management also noted: (a) that only partial progress was made in the area of State Land Management (Component 5); and (b) that several opportunities were missed to restructure the Project to address implementation issues as they arose and to respond to the rapidly changing circumstances on the ground (e.g., the unanticipated exponential growth of land values and resulting land conflicts in Cambodia).

56. In the next paragraphs, Management would like to address three specific issues raised in the Panel's Report: (a) Management's failure to act on information regarding the problems in the BKL area; (b) Management's lack of systematic attention to social consequences of land titling; and (c) the lack of a robust Monitoring and Evaluation (M&E) System for the Project.

57. **In its Report, the Panel finds that the actions taken by Bank Management were too late to prevent the harms now being done in the BKL area,** although it recognizes that Management's recent supervision of the Project complies with the Bank's Operational Policy 13.05 on Project Supervision as concerns the issues arising in the Request.

58. **Management would like to reiterate, as detailed in the 2009 Response, that once it realized in early 2009 that there was an apparent acceleration of evictions, and thus potential harm to Project-affected persons, it reacted promptly:**

- It followed a multi-pronged approach including dialogue with the Government, NGOs and community members. It fielded the ERM mission and, in light of the mission's findings, advocated with the Government for a moratorium on evictions and the development of a national resettlement framework.
- It took the lead in collaboration with other Development Partners in the issuance of a joint public statement calling for a halt to evictions of Cambodia's urban poor (see Annex 5).
- It sanctioned a Safeguards Review Mission in August 2009 in an effort to develop a mutual understanding with Government on the process to be followed in the BKL area.
- It relayed to high levels of Government on several occasions that Government was obliged under the DCA to comply with the Bank's Resettlement Policy and the Project's RPF.

- It offered to allocate IDA resources to properly resettle the BKL communities, and proposed that the Bank and the Government jointly agree to suspend the Project while the policy framework was improved.

59. **In its 2009 Response, Management acknowledged that it was slower than it should have been in recognizing linkages between the threatened evictions at BKL and the Government's obligations under the RPF and in communicating with the Government on this point.** Management has acknowledged that the RPF triggers were ambiguously defined and that, because of the inherent complexity of the situation, it required substantial internal discussion to reach a consensus on the applicability of the RPF in the BKL case. However, once Management concluded that the RPF was triggered and clarified the Government's obligations in relation to the RPF, the Government indicated that it would not have borrowed if these conditions had been fully understood at the outset. This response suggests that earlier action on Management's part is unlikely to have led the Government to acknowledge that the RPF applies to the Requesters.

60. **The Panel found that Management's attention to the social consequences of land titling, including potential evictions, was not systematic and suffered from a lack of attention from social safeguard specialists.** In its 2009 Response, Management acknowledged that the follow up on safeguards issues could have been more robust. Management would like to clarify that a senior safeguards specialist participated in preparations for the LMAP Mid-term Review (MTR, September 2004) and in both the ERM (April 2009) and the Safeguards Review Mission (August 2009). The latter was fielded as evictions at BKL appeared imminent. The mission was unable to meet with the Project Director or other government officials but instead prepared a detailed written request for information from LMAP and met with NGOs and Requesters to discuss efforts to forestall the threatened evictions. In September 2009, Management also undertook a Safeguards Performance Review¹⁰ of the entire Cambodia portfolio of nineteen projects.

61. **On the Panel's finding that, as a consequence of the lack of a robust M&E system for the Project, Management did not become aware of significant issues arising from the Project,** Management acknowledges that the failure to define how and by whom the M&E system was supposed to be designed was a shortcoming of both Project preparation and appraisal. However, the need to establish an M&E system was insisted upon during supervision and reiterated in the MTR. An M&E Manual was finally adopted in December 2006 and the Project had begun to apply the M&E system through a unit that had received special training. The M&E system was described as functioning well by mid-2008, although it was still inadequate to alert the Task Team to the problems that were arising in LMAP titling areas.

Issues related to the Cause of Harm Suffered by the Requesters

62. **Management has acknowledged in its 2009 Response that there were a number of shortcomings in Project design and supervision.** The Panel, in its Report, generally confirms and deepens Management's own assessment of these shortcomings. In several instances,

¹⁰ This desk review was carried out by a small team from September 21 to October 7, 2009, which produced a report "Cambodia Portfolio: Safeguards Performance Review", dated November 3, 2009.

however, the Panel extends its analysis and states that these supervision and design weaknesses “contributed to the harm suffered by the Requesters.”

63. **Management wishes to emphasize that the cause of harm or risk of harm to the Requesters is eviction or threatened eviction from the BKL area.** These evictions were carried out, and continue to be carried out, by the MPP and Shukaku, the BKL area developer (neither of which is the Implementing Agency of the Project), based on the Government’s consistent assertion that the land in question is State land that has legitimately been leased to the developer and that the Requesters do not have possession rights. Management has not endorsed this assertion and, as noted in the 2009 Response, has concluded that the actions of the Government were not consistent with its obligations under the RPF or DCA.

64. **While the evictions have occurred within an LMAP Adjudication Area, Management notes that it has found no evidence to suggest that the Project was used as a vehicle for carrying out or justifying the evictions.** The Government did not use LMAP as an instrument to assert or confirm ownership over the area. Instead, the Government maintains that its actions were outside the scope of the Project. Furthermore, as reported in the 2009 Response and confirmed by the Panel, Government evictions have also occurred in recent years in many other parts of Cambodia, both within and outside Project Provinces and LMAP Adjudication Areas. Management has found no basis for concluding that LMAP contributed to evictions. Based on available data, the reported incidence of evictions and multi-party land disputes inside and outside Adjudication Areas appears to be roughly equal.

65. **In offering these observations, Management does not intend to diminish the severity of the harm suffered by the Requesters.** Both the 2009 Response and the Panel’s Report have concluded that the Requesters suffered serious harm or the threat of harm. Both provide detailed assessments of how Project procedures and policy frameworks intended to help avoid or mitigate such harm were not adequately deployed, and that remedial action by the Government is required under its obligations defined in the DCA. Nevertheless, Management considers it essential that these shortcomings are characterized properly in terms of their relationship to the harm suffered by the residents of BKL.

66. **In this respect, Management notes that the Board’s Resolution and Clarifications pertaining to the Panel provide helpful guidance.** The 1999 Clarification states at paragraphs 13 and 14: *“the Panel will discuss in its written report only those material adverse effects, alleged in the request, that have totally or partially resulted from serious Bank failure of compliance with its policies and procedures (...) For assessing material adverse effect, the without-project situation should be used as the base case for comparison, taking into account what baseline information may be available. Non-accomplishments and unfulfilled expectations that do not generate a material deterioration compared to the without-project situation will not be considered as a material adverse effect for this purpose...”*

67. **Despite what could be considered LMAP’s non-accomplishments and unfulfilled expectations, it is Management’s view that the Bank’s failures neither created nor exacerbated a risk of eviction beyond the risk that would have existed in the absence of the Project.** LMAP clearly did not live up to its promise and potential in terms of improving tenure

security for residents of the BKL area. Both the 2009 Response and the Panel's Report leave little doubt that, with respect to BKL residents, the benefits and protections provided by LMAP fell short of expectations and that Management was unable to prevent or mitigate the harm that occurred. As noted in the 2009 Response, "*Management considers that the communities of BKL did not benefit from the protection provided under the Project's design.*" At the same time, it should be recalled that the request for early cancellation of the Credit by the Government was prompted by Management's request to the Government to mutually suspend Project implementation and allow time to reach consensus on how to address the concerns of BKL residents. The Government's continuing actions at BKL and elsewhere lend support to the view that the Project's shortcomings did not cause or compound the risk of evictions or the subsequent treatment of those evicted.

VI. LESSONS LEARNED

68. A number of lessons can be drawn from the implementation and achievements of the Project. They are particularly relevant to the management of high-risk operations and are timely as the Bank introduces a more structured approach to risk management through the Operational Risk Assessment Framework (ORAF). They all point to the need to bridge gaps between project design and implementation.

- **The focus on a single set of risks can contribute to blind spots.** As the 2009 Response described in detail, the Project experienced acute fiduciary problems leading to a temporary suspension of disbursements from the Credit. Addressing these problems occupied the attention of the Task Team and Management for an extended period at the expense of other types of risks. A more structured approach to the consideration of risk, notably during implementation, is critical to keep a broader perspective (e.g., with regard to the political economy environment). In this Project, in particular, there should have been extensive inputs from Management before and after supervision missions to avoid blind spots. Proactive and adequately-resourced supervision strategies should have been adopted, which could have helped to address implementation issues as they arose and to seize the opportunity to restructure the Project at the MTR (2004), at the lifting of the suspension of disbursements (February 2007) or at the extension of the Closing Date of the Credit (December 2007).
- **Multiple sources of information are required to inform project management.** Because of the late establishment of the Project's M&E system and its focus on land titling, the Bank and the Government had very little "real-time" information on what was happening on the ground. The Project needed an on-line management information system (including regularly updated maps), an accompanying socio-economic research agenda to examine impact, and a continuing process of communication with NGOs. The generation and dissemination of information would have been facilitated by a binding agreement on public disclosure prepared at the design stage.
- **The Results Framework and the M&E system go hand-in-hand and should be designed with implementation in mind.** The LMAP experience is a reminder that objectives should be kept as simple as possible and should avoid including vaguely-specified impacts and outcomes whose achievement requires the satisfaction of conditions outside the Project's control. Broadly-defined outcome indicators are difficult

(if not impossible) to measure and in the case of this Project show that the operational aspects of M&E had not been sufficiently thought through at the design stage. For a Results Framework to be credible, it is essential to have the core elements of an M&E system established before project implementation commences, including having all baseline data prepared.

- **Safeguards requirements should be clear and supported by an explicit supervision plan.** LMAP safeguards instruments needed to be clearer in terms of their applicability, and should have provided a more specific definition of the roles and responsibilities of key actors, including Management, the client, Project-affected people and civil society. Furthermore, the use of safeguards frameworks (e.g., Environmental Mitigation Framework—EMF, RPF and Indigenous People Policy Framework—IPPF) entails ensuring that counterparts have adequate capacity to screen sub-projects as well as to prepare the safeguards instruments when required during project implementation. In addition, a comprehensive and detailed safeguards supervision plan for the Project should have been prepared during appraisal, commensurate with the potential risks and the nature of the investment. For all projects considered to be “high risk,” there should be intensive supervision during the first year of implementation involving at least two safeguards supervision missions which, in turn, would assess the specific needs for the following years. Overall, LMAP would have benefited from closer safeguards supervision.
- **Reliance on parallel programs is an important risk factor.** The LMAP design relied on a separate, donor-funded program to be implemented in parallel (see references to the Informal Settlements Program in the 2009 Response) to ensure that the poorest and most tenure-insecure communities would benefit from titling. This parallel program covered Phnom Penh alone and no comparable arrangements were included under LMAP to address similar issues elsewhere. This introduced an unidentified risk and should have been accompanied by a detailed plan for coordination between the two programs in Phnom Penh and plans to develop a similar arrangement for State lands elsewhere.
- **Sequencing operations.** Careful consideration should be given to the relative sequencing and merits of: (a) proceeding with a land titling project (focusing exclusively in areas where the level of disputes is relatively low); (b) developing a program for upgrading informal settlements before moving forward with large-scale land titling (especially under circumstances where land disputes are common); or (c) having parallel operations that attempt to accomplish both goals simultaneously. Dispute resolution without recourse to urban housing development and livelihoods support was an inadequate solution in the case of LMAP.
- **Specific Implementation Arrangements.** The Project’s design called for NGOs to play an advocacy role (in raising public awareness, bringing disputes to the fore and providing legal assistance to the poor) but it was unrealistic to expect that the Government and NGOs would be able to engage in formal contracts. This requirement, with hindsight, could have been handled *via* a Bank-executed Trust Fund, as has been done in more recent land and natural resource sector projects in Cambodia (e.g., LASED).

69. These lessons learned would be important to any future Bank involvement in Cambodia and have broad relevance for land administration projects in general, particularly those in high-risk environments. They will be reflected in the LMAP Implementation Completion and Results Report to be delivered in the third quarter of Fiscal Year (FY) 2011, mainstreamed as good practices and included in regional operational training for Bank staff and Government counterparts.

VII. MANAGEMENT'S ACTION PLAN IN RESPONSE TO THE FINDINGS

70. Management notes that there has been very limited progress in the implementation of the Action Plan set forth in the 2009 Response. The Government continues to disagree with Management's position that the Project's RPF applies to the evictions at BKL. Management also finds troubling the continuing threats of eviction and the Government's apparent inability to implement its own new regulations on resettlement (Circular No. 3 on the Resolution of Temporary Settlements on Illegally Occupied Land in Urban Areas).

71. Relations between the Government and the Bank regarding the BKL issues remain strained as the Government has consistently stated that it does not agree with the conclusions of the 2009 Response and has continued to decline support from the Bank to implement core elements of the proposed Action Plan (specifically those that would ensure that the Requesters and other Project-affected persons facing resettlement are treated in accordance with the RPF). More recently, following a brief presentation of the Panel's findings by Country Management, Government indicated that it is still not persuaded that the RPF applies and, as such, that it is not prepared to work with the Bank on the implementation of an Action Plan that includes the BKL resettlement issues. Further, the Government made it clear that the MPP will continue to take the lead in handling the situation according to the legal and policy framework of Cambodia. Management has also offered, and Government has signaled some interest to pursue, a general program of assessment and support to resettled communities but the inclusion of BKL in the scope of this work remains a sensitive issue. Government has indicated its initial support for such a program if implemented by a trusted NGO, but to date no agreement has been reached on the scope or scale.

72. Management agrees with the Panel that engagement on land issues in Cambodia is highly relevant to the country's development and is consistent with both the Government's long-term development vision and the Bank's overall mandate of poverty reduction. However, while the Panel states that it "*hopes that this Investigation Report will contribute to the start of a new engagement with the Government on the resolution of issues raised by the requesters,*" the current state of dialogue on these issues has deteriorated to the point that the Bank's ability to facilitate solutions is diminished. This is in contrast to the discussion that was commencing in November 2008, on the design of a proposed second phase of LMAP, including ways to improve protections for the poorest and most tenure insecure. At this stage, Management faces very limited options to mitigate the harm suffered by people in LMAP areas and to use the lessons it has learned as the foundation for a more robust engagement in the land sector in Cambodia. Indeed, it may need to scale back engagement in the sector until a consensus can be reached on the way forward (as happened in the forest sector in 2006, following the Panel's investigation of the Cambodia Forest Concession Management and Control Project).

73. Despite these difficulties, Management continues to believe that the priorities that helped shape the Action Plan included in the 2009 Response remain valid. In view of this and based on the history of the last 15 months, Management considers the most constructive way to support the affected residents of BKL is to move beyond further discussion of well-entrenched views. This would allow building on what Management believes should be a shared recognition with the Government and the Development Partners that the people in BKL have significant grievances that need to be addressed. Towards this end, Management proposes to pursue engagement at the highest level of Government with the objective of gaining support from the Government and the Development Partners: (a) to support affected communities in the BKL area in a manner that responds to their development and livelihood needs; and (b) to ensure that any communities that need to be resettled in the future benefit from a resettlement policy that meets appropriate standards and have recourse to fair and independent dispute resolution mechanisms.

74. Until these objectives are reached, the Bank reiterates its call for halting further forced evictions, consistent with the Donor Statement and the NGO Response dated July 16, 2009, on the eve of the Group 78 evictions and before the BKL events (see [Annex 5](#)).

75. [Table 1](#) below presents the Revised Action Plan, which has been updated to reflect the status of the current relationship between the Government and the Bank and to follow up on the Panel's findings.

76. In parallel, the Country Team will prepare a short term Interim Strategy Note (ISN) in lieu of a full Country Assistance Strategy (CAS), the aim of which would be to rebuild trust with the Government and focus engagement on areas of mutual interest where there is a solid implementation track record, a clear agreement on strategy going forward, and where risks can be effectively identified and minimized. It is proposed that the ISN be presented to the Board prior to the end of FY11.

Table 1: Revised Management Action Plan

No.	Issues	Actions
Supporting the affected communities in BKL area (Updated from 2009 Response)		
1	Assessment of community needs and mitigation measures.	Based on agreed Terms of Reference (TORs) agreed with Government, a local NGO (with support from an international urban development specialist) will begin a needs assessment of households affected by the BKL development in February 2011 (to be completed within 7 weeks).
2	Adverse environmental impacts from filling of the lake.	Management will continue to engage Government and the MPP to discuss cooperation on the design of measures to mitigate adverse environmental impacts from the filling of BKL. However, action in this area will only be possible if a new dialogue on the BKL development is opened up with Government or the private sector.
3	Financing measures that respond to the needs of tenure insecure and recently resettled communities from the BKL area.	Management will continue to explore the possibility of supporting MPP initiatives that respond to the needs of tenure insecure and recently resettled communities from the BKL area.

No.	Issues	Actions
Supporting the affected communities in Project areas (Updated from 2009 Response)		
4	Communities resettled or threatened with eviction from Adjudication Areas outside BKL without proper compliance with policies.	Based on recently completed analysis, Management will offer support for initiatives that respond to the needs of tenure insecure and recently resettled communities outside the BKL area focusing on communities that were included in LMAP Adjudication Areas.
5	Improvement and enforcement of resettlement policy and land dispute resolution for the benefit of communities at risk.	Management will continue to pursue this dialogue in a multilateral environment, through the TWG-L, with targeted support on key issues from Senior Diplomats resident in Phnom Penh.
Engagement Going Forward (New)		
6	Improving design of projects in the pipeline and the supervision of active projects.	In highly sensitive sectors, such as land, Management will support task teams to improve risk assessment and realistic mitigation measures as part of ORAF, refrain from preparing overly ambitious and unspecific Results Frameworks and M&E systems, and develop unambiguous and prudent safeguards resettlement frameworks (e.g., EMF, RPF, and IPPF). Lessons learned from this review will be reflected in the LMAP Implementation Completion and Results Report and included in regional operational training for Bank staff and Government counterparts.

VIII. CONCLUSION

77. Management believes that, despite the shortcomings acknowledged in its 2009 Response, the Bank team has made every effort to apply its policies and procedures and to pursue its mission statement in the context of the Project. Management and the Panel share the same concern for the large number of people who continue to be under the threat of eviction in LMAP Adjudication Areas in BKL, as well as in other areas of the country.

78. Management will make every effort to implement the Action Plan to remedy the deficiencies in the implementation of LMAP and to find ways to support activities aiming at improving living conditions and livelihood opportunities for affected communities.

79. Management proposes to report back to the Board on the implementation of the revised Action Plan within 60 days of the Board Discussion of this Management Report and Recommendation, and prior to the presentation of the ISN that will be prepared in lieu of a full CAS. If there is continued lack of willingness to cooperate on addressing the BKL resettlement issue, Management would anticipate reviewing all current and proposed support to the Government in the land sector and carefully take into account the Government's position in considering the magnitude and focus of future Bank support to Cambodia.

ANNEX 1

FINDINGS AND COMMENTS

Management’s proposed actions addressing the Findings set forth in this Matrix are presented in Section VII of the main text: “Management’s Action Plan in Response to the Findings.”

No.	Finding	IR ¹ Para No.	Comment
Claim that events in BKL are linked to LMAP.			
1.	The Panel finds that the BKL area is within a Project province and was declared for adjudication under LMAP, hence activities relating to the verification of land tenure and ownership subsequent to the notice of adjudication are directly linked to Project. This is consistent with Management’s position.	110-116	Comment: Management confirms its understanding, as stated in the MR (Management Response; MR 51), that the Sras Chok Adjudication Area was an area in which the Project was carrying out systematic land titling and therefore the agreed LMAP procedures for systematic adjudication (including the environmental and social guidelines) would apply.
Claim that the residents of BKL were denied adjudication of their property claims under LMAP.			
2.	It is the Panel’s view that parts of the BKL area may be eligible for consideration of titling for private ownership under the adjudication procedures of LMAP. The Panel concurs with Management that residents in the BKL area were denied access to a due process of adjudication of their property claims.	117-131; 132-141	Comment: Management would like to reiterate its position as stated in the MR (50) – <i>“Incomplete information concerning the Sras Chok adjudication process makes it difficult to assess in detail its compliance with Sub-Decree 46. Based on available information, however, Management believes that residents in the Adjudication Area of BKL were not given a sufficient opportunity to present claims regarding their possession of the land and to have those claims adjudicated in accordance with prescribed procedures.”</i>
3.	The Panel finds that residents of the BKL area were justified in expecting that their claims to land were eligible for consideration under systematic land titling and, furthermore, that all land claims in the commune were to be adjudicated in accordance with procedures and processes for adjudication of property claims, agreed between the Government, the Bank and the Development Partners supporting LMAP.	132-141	Comment: Management acknowledges the Panel findings that Requesters’ claims were eligible for consideration under agreed procedures. See item 2, above.
4.	The Panel notes that Sub-Decree 46 and the adjudication procedures developed under LMAP do not include any provisions for excising portions of a declared adjudication area once the process has legally started.	142-148	Comment: Management concurs with the Panel’s finding. However, Management would like to clarify that Article 7 (b) of the referenced sub-decree gives the authority to the Adjudication Officer to demarcate boundaries of disputed parcels in the absence of agreement among the parties. From this perspective the problem in the BKL area was not so much that areas were <i>excised</i> but that the LMAP Land Registration Teams apparently did not collect or review all available evidence on the villagers’ claims and, although BKL village areas were marked as having “unknown” ownership (indicating that the State claim was disputed), there is no indication that the Administrative Commission either reviewed BKL villagers’ claims or referred them to the National Cadastral Commission (as required under Article 12 of the same Sub-Decree). It appears that because no referral was made, the State was never required to defend its <i>de facto</i> claim that the BKL area was State Public Land (see also Item 9).

¹ IR = Inspection Panel Report.

No.	Finding	IR ¹ Para No.	Comment
5.	The Panel notes that there is no reference in any key Project documents to the principles for determining 'areas where disputes are likely' or procedures for how to excise such areas from systematic land titling.	149-154	Comment: Management concurs with the Panel's observation. However, Management would like to clarify that it was not the intent of the Project design to exclude areas subject to dispute from titling. It was recognized that the adjudication of titles is, by its very nature, virtually certain to encounter disputes (especially in the Cambodia context) and the Project was designed to address them – either in the field if possible or by directing them to suitable dispute resolution mechanisms. In determining where to target Project activities, given limited resources and the need to build capacity in a weak institution, it was in Management's view a reasonable exercise of judgment to select areas where the level of disputes was relatively low. It is important to distinguish between: (a) a decision on whether or not to declare an Adjudication Area; and (b) a failure, once such an area has been declared, to carry out the adjudication process in accordance with the required procedures (including referral to dispute resolution mechanisms). It was the latter that occurred at BKL. There are no references in Project documents to excluding households or plots from the systematic titling process on the basis that they are involved in disputes. The position in both the Project documents and Cambodian law is that such disputes are to be resolved through systematic titling and associated dispute resolution processes.
6.	The Panel notes that the decision not to support the regularization of informal settlements under the Project is not accompanied, in the PAD or the DCA, with formal definitions of the terms 'informal settler', 'informal settlement' or 'squatter'.	155-156	Comment: Management acknowledges that such terms are not formally defined in the PAD or the DCA, but considers that a formal definition was not needed for the purpose that these terms have in the Project documents. The Panel is correct to observe (IR 156) that even people who <i>prima facie</i> seem to be illegally occupying land are entitled to adjudication of their claims. In Management's view, however, Project design was consistent with this observation. References to the Project not supporting the regularization of informal settlements did not imply that the Project was designed to exclude peoples' claims on the basis of an <i>a priori</i> judgment that they were "informal" or "squatters." Instead, these references are grounded in the fact that, if a person were legitimately determined to be an informal settler, then the Project would not be able to issue a title unless and until the Government decided to allocate the land to that person. There is a distinction between land titling operations (which clarify and reflect the existing legal rights of people) and the regularization of informal settlements (which upgrade people's rights). LMAP was designed for the former, not the latter.
7.	It is the Panel's understanding that the primary objective of the Project was, in the absence of clear land classification boundaries, to determine the legality of any claims to land, including claims by people who <i>prima facie</i> seem to be illegally occupying land, through an adjudication process.	155-156	Comment: Management would like to clarify that the Project development objectives were " <i>to improve the security of land tenure for urban and agricultural land holders and to promote the development of efficient land markets.</i> " Management acknowledges the importance of determining the legality of any claims to land, including those by people who <i>prima facie</i> were occupying land illegally. See Item 6, above. However, the PAD highlighted the difficulties likely to be encountered in adjudicating such claims.
8.	Despite the statement in the PAD that the Project would coordinate closely with the UNCHS/UNDP program dealing with informal settlers and squatters, the Panel was unable to obtain any evidence during its investigation that any such coordination or support was provided by the Project to UNCHS/UNDP program prior to it being ended in 2004, nor was any evidence obtained of a change in approach towards informal settlements following this date.	157-158	Comment: Management agrees that LMAP's coordination with and support to the parallel UNCHS/UNDP informal settlements program was not as close as anticipated at the time of Project design. Management acknowledges that supervision of LMAP did not raise with MLMUPC concerns about how to fill the gap when the informal settlements program came to an end in 2004. Management also acknowledges that LMAP did not adapt its approach towards informal settlements in the post UNCHS/UNDP program period and, as noted previously in the 2009 Response, "... for the last five years

No.	Finding	IR ¹ Para No.	Comment
			<p><i>there has been no program to regularize tenure in informal settlements in a manner that would allow them to be titled under the [LMAP] Project.” (MR 36)</i></p> <p>The inclusion of informal settlements in the proposed LMAP II was discussed with the NGOs – Bridges Across Borders South East Asia, (BABSEA), Community Legal Education Center (CLEC), Center on Housing Rights and Evictions (COHRE) and Jesuit Refugee Service-Cambodia (JRSC) – in November and December 2008; however, this discussion was cut short after violent evictions occurred in Phnom Penh in January 2009 and efforts to address BKL residents’ concerns reached an impasse in August 2009.</p>
9.	The Panel concurs with the ERM’s findings that the lack of State land mapping has contributed to the <i>de facto</i> determination of State land (public and private) without applying the LMAP adjudication process.	159-163	<p>Comment: Management concurs that there is uncertainty in many parts of Cambodia as to the location and classification of State land. The State land mapping process under Component 5 of the Project was intended to help address this although, as noted in the 2009 Response (MR 68), both the design and implementation of the Component were problematic and in the end it was rated as “unsatisfactory.” However, Management also observes that under the Land Law and relevant sub-decrees, the prior mapping of State land is not a necessary condition for the proper adjudication of rights to individual parcels. If done correctly, adjudication itself would require a determination as to the classification of a particular parcel, which could be carried out even in the absence of maps. Hence, while State land mapping would have been desirable and would have expedited land titling, it is not clear that its absence contributed to <i>de facto</i> determination of State land classification. On the contrary, given what is known about the timeline of negotiations regarding the BKL lease, it is clear that a <i>de facto</i> determination that the area was State land occurred well prior to systematic titling. From the perspective of LMAP, the problem was that the State was not required to hold its <i>de facto</i> claim up for contest as the process of systematic titling requires (SD 46, Art. 12), and as such that the required dispute resolution processes were not triggered (see also Item 5).</p>
10.	The Panel finds that the Project’s design is not clear about the Project’s strategy both with respect to determining areas for systematic land titling (i.e., adjudication areas) and to dealing with disputes between State entities and private individuals during adjudication process.	164-169	<p>Comment: Management would like to note that the vision of the Land Law and the LAMDP, of which the Project was the first phase, was eventually to cover the entire country. As noted in the 2009 Response, the Project was designed to be implemented sequentially, working first in selected Adjudication Areas and then moving on to others. LMAP Adjudication Areas were typically entire communes, and their selection was based on decisions made at local government level. It was not within the capacity (or budget) of the Project to cover all communes within Project provinces at once, or even during the life of the Project. In determining where to target Project activities, given the limited resources and the need to build capacity in a weak institution, it was in Management’s view a reasonable exercise of judgment to start the process in areas where the level of disputes was relatively low. The selection of Adjudication Areas, however, did not represent an <u>exclusion</u> of those areas that were not selected; systematic titling was intended eventually to cover the whole country.</p> <p>With respect to dealing with disputes between State entities and private individuals during the adjudication process, Project <u>design</u> recognized the importance of transparent adjudication processes, accessible dispute resolution mechanisms, and provision of legal assistance to strengthen the ability of individuals to make effective use of such mechanisms. Indeed a potential lack of commitment to ensuring the functioning of the</p>

No.	Finding	IR ¹ Para No.	Comment
			<p>dispute resolution mechanism was identified as a key risk in the PAD. While the Project succeeded in supporting the establishment of Cadastral Commissions for land dispute resolution little progress was made in relation to the capacity of the system to deal with cases involving powerful interests (including those of the State). As acknowledged in the 2009 Response it is evident that the risk relating to dispute resolution was not carefully enough monitored as the “focus of implementation shifted towards fiduciary aspects and key outputs, notably the issuance of titles” (MR 67).</p>
11.	<p>The Panel finds that these ambiguities in the Project’s design in part contributed to the harm that the Requesters are facing.</p>	170	<p>With respect to whether supposed design flaws contributed to the harm that the Requesters are facing, Management wishes to emphasize that the primary cause of harm or risk of harm to the Requesters is eviction or threatened eviction from the BKL area. These evictions were carried out, and continue to be carried out, by the MPP and the BKL area developer (Shukaku, Inc.), based on the Government’s assertion that the land in question is State land that has legitimately been leased to the developer and the Requesters do not have possession rights. Management has not endorsed this assertion and, as noted in the 2009 Response, has concluded that the actions of the Government were not consistent with its obligations under the RPF or DCA.</p> <p>While the evictions have occurred within an LMAP Adjudication Area, Management notes that it has found no evidence to suggest that the Project was used as a vehicle for carrying out or justifying the evictions. The Government did not use LMAP as an instrument to assert or confirm ownership over the area. Instead, the Government maintains that its actions were outside the scope of the Project. Furthermore, as reported in the 2009 Response and confirmed by the Panel, Government evictions have also occurred in recent years in many other parts of Cambodia, both within and outside Project provinces and LMAP Adjudication Areas. Management has found no basis for concluding that LMAP contributed to evictions. Based on available data, the reported incidence of land disputes inside and outside Adjudication Areas appears to be roughly equal.</p> <p>In offering these observations, Management does not intend to diminish the severity of the harm suffered by the Requesters. Both the 2009 Response and the Panel’s Report have concluded that the Requesters suffered serious harm or the threat of harm. Both provide detailed assessments of how Project procedures and policy frameworks intended to help avoid or mitigate such harm were not adequately deployed, and that remedial action by the Government is required under its obligations defined in the DCA. Nevertheless, Management considers it important that Bank and Project shortcomings are viewed from an appropriate perspective in terms of characterizing the role these shortcomings may have played in the harm that has occurred.</p> <p>In this respect, Management notes that the Board’s Resolution and Clarifications pertaining to the Panel provide helpful guidance. The 1999 Clarification states at paragraphs 13 and 14: <i>“the Panel will discuss in its written report only those material adverse effects, alleged in the request, that have totally or partially resulted from serious Bank failure of compliance with its policies and procedures (...). For assessing material adverse effect, the without-project situation should be used as the base case for comparison, taking into account what baseline information may be available. Non-accomplishments and unfulfilled expectations that do not generate a material deterioration compared to the without-project</i></p>

No.	Finding	IR ¹ Para No.	Comment
			<p><i>situation will not be considered as a material adverse effect for this purpose...²</i></p> <p>Despite what could be considered LMAP's "non-accomplishments and unfulfilled expectations," it is Management's view that the Bank's failures neither created nor exacerbated a risk of eviction beyond the risk that would have existed in the absence of the Project. LMAP clearly did not live up to its promise and potential in terms of improving tenure security for residents of the BKL area. Both the 2009 Response and the Panel's Report leave little doubt that with respect to BKL residents, the benefits and protections provided by LMAP fell short of expectations and that Management was unable to prevent or mitigate the harm that occurred. As noted in the 2009 Response, "<i>Management considers that the communities of BKL did not benefit from the protection provided under the Project's design.</i>" At the same time, it should be recalled that the request for early cancellation of the Credit by the Government was prompted by Management's request to the Government to mutually suspend Project implementation and allow time to reach consensus on how to address the concerns of BKL residents. The Government's continuing actions at BKL and elsewhere lend support to the view that the Project's shortcomings did not cause or compound the risk of evictions or the subsequent treatment of those evicted.</p>
12.	<p>Consequently, the Panel finds that although the risks associated with Project were properly identified, Management did not comply with OMS 2.20 on Project Appraisal with respect to <u>addressing</u> these risks.</p>	164-170	<p>Comment: Management previously recognized (MR 34) that "<i>three risks identified in the Critical Risks matrix of the PAD are directly relevant [in this case]... (a) that governance does not improve; (b) that Government lacks commitment to ensuring the functioning of the dispute resolution mechanism; and (c) that Government entities and other stakeholders are not able to reach agreement on the process of land classification. After more than seven years of Project implementation, it is evident that these risks did indeed materialize.</i>"</p> <p>Management also recognized previously (MR 34) that while the PAD assumed that "<i>the risk of not reaching agreement on the process of land classification could be overcome by supporting a 'consultation process to build broad consensus for decisions' and 'technical assistance to the council of land policy to reach consensus among the various government agencies'...</i>" in hindsight this assumption is seen as unrealistic (see also Item 10).. and Management recognized (MR 34) that "<i>a more detailed analysis of the political economy context would likely have identified this view as overly optimistic and that: (a) success in this respect depended on high-level inter-agency coordination; (b) consultation would not necessarily lead to consensus; and (c) numerous actors had strong incentives not to proceed with a transparent and public interest based classification and registration of State land.</i>" Management also notes that recent analysis of eviction trends in Cambodia over the past 12 years show a repeated pattern – evictions peak in the period following elections and are kept at low levels in the period preceding elections.</p>
13.	<p>The Panel finds that Management's supervision of the Project for several years overlooked the critical issue of adjudicating private claims on land claimed by State. This failure of Management, in the Panel's view, contributed to the events in the BKL area and to the harm that the Requesters are facing.</p>	171-177	<p>Comment: Management previously acknowledged (MR 47) that "<i>... even though the LMAP was treated as a high-risk project and thus significant resources were dedicated to its preparation and supervision, there were specific shortcomings in supervising: (a) the implementation of one component (i.e., land management) and two sub-components (i.e., information dissemination & community participation, and legal</i></p>

² <http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/1999ClarificationoftheBoard.pdf>

No.	Finding	IR ¹ Para No.	Comment
	Management's supervision of this critical issue did not meet requirements of OP/BP 13.05.		<p><i>assistance for the disadvantaged); and (b) the application of safeguards."</i></p> <p>Also as noted in the Management Response (MR 67) following the MTR "... the focus of implementation shifted towards fiduciary aspects ... which ultimately led to the suspension of disbursements from the Credit in June 2006."</p> <p>Management acknowledges that the Project was not implemented in accordance with the design, and that deviations should have been caught and responded to sooner. As indicated in the 2009 Response (Annex 1, Item 12) "Management considers that the communities of BKL did not benefit from the protection provided under the Project's design" but Management does not consider that the Bank's failures either created or exacerbated a risk of eviction beyond the risk that would have existed in the absence of the Project (see also Items 20 and 29).</p>
14.	The Panel finds that Management failed to act on information when the problems arising in the BKL area were first brought to its attention, and that Management's supervision in this respect was not consistent with the requirements of OP/BP 13.05.	178-180	<p>Comment: Management acknowledged in the 2009 Response that it should have been more proactive in addressing safeguard issues and specifically the evictions and threats of eviction that occurred throughout the Project life.</p> <p>Management should have made a more concerted effort to address the weaknesses in the dispute resolution mechanisms, although it is not clear that these efforts would have been successful (given the weak state of the rule of law and the continuing challenges to deal with corruption in Cambodia).</p> <p>Management also recognized "<i>that several opportunities were missed to restructure the Project</i>" (MR 69), to address implementation issues as they arose and to respond to the rapidly changing circumstances on the ground (e.g., the unanticipated exponential growth of land values and resulting land conflicts in Cambodia).</p> <p>However, Management would like to reiterate that it acted promptly when problems arising in the BKL area were brought to its attention.</p> <p>In November 2008, the Task Team learned of NGO concerns about LMAP's failure to address the situation of vulnerable communities and the Team engaged with NGOs who focused attention on how to improve the design of LMAP II. As noted in the 2009 Response (MR 56) - "<i>The Task Team continued a constructive dialogue with the NGOs and, in the light of the NGOs' concerns, facilitated on January 20, 2009 a meeting of the NGOs with the TWG-L. During this meeting, the NGOs advocated that poor and vulnerable communities – particularly in urban areas – were at disadvantage to obtain land titles and should receive specific support through the Project.</i>"</p> <p>As detailed in the 2009 Response, once Management realized in early 2009 that there was an apparent acceleration of evictions, and thus potential harm to Project-affected persons, it reacted promptly:</p> <ul style="list-style-type: none"> • It followed a multi-pronged approach including dialogue with Government, NGOs and community members. It fielded the ERM mission and, in light of the mission's findings, advocated with Government for a moratorium on evictions and the development of a national resettlement framework. • It took the lead in collaboration with other Development Partners in the issuance of a joint public statement calling for a halt to evictions of Cambodia's urban poor (see Annex 5).

No.	Finding	IR ¹ Para No.	Comment
			<ul style="list-style-type: none"> • It sanctioned a Safeguards Review Mission to develop a mutual understanding with Government on the process to be followed in the BKL area. • It relayed to high levels of Government on several occasions that Government was obliged under the DCA to comply with the Bank's Resettlement Policy and the Project's RPF. • It proposed that the Bank and the Government jointly agree to suspend the Project while the policy framework was improved. • It offered to allocate IDA resources to properly resettle the BKL communities.
15.	<p>The Panel finds that Management's recent supervision of Project, on issues raised by the Request, complies with Bank Policy on Project Supervision OP/BP 13.05. However, the Panel concurs with the Requesters' assessment that ... <i>"it is evident that the actions taken by the Bank Management were too late to prevent the harms now being done."</i></p>	181-183	<p>Comment: Management has repeatedly and publicly expressed its concern over the fate of the Requesters and has met with them frequently to understand and discuss the strategy for overcoming their situation. Management acknowledges the Panel's finding on compliance with OP/BP 13.05 since January 2009.</p> <p>In Management's view, no evidence has been presented that earlier actions by the Bank would have prevented the particular harms that the Requesters are now suffering. In its 2009 Response, Management acknowledged that it was slower than it should have been in recognizing linkages between the threatened evictions at BKL and the Government's obligations under the RPF and in communicating with the Government on this point. Management has acknowledged that the RPF triggers were ambiguously defined and that, because of the inherent complexity of the situation, it required substantial internal discussion to reach a consensus on the applicability of the RPF in the BKL case. However, once its obligations in relation to the RPF were clarified, Government indicated that it would not have borrowed if these conditions had been fully understood at the outset. This response suggests that earlier action on Management's part is unlikely to have led the Government to acknowledge that the RPF applies to the Requesters or otherwise to improve the way they were resettled.</p> <p>The early cancellation of the Project by the Government was prompted by Management's request to the Government to mutually suspend Project implementation and allow time to reach consensus on how to address the concerns of BKL residents. Management's subsequent efforts to address the needs of the Requesters have received only intermittent support from within the Government (see also Item 20 below).</p>
Claim that residents of BKL were displaced in violation of agreed policies for involuntary resettlement.			
16.	<p>The Panel finds that the decision to prepare a Resettlement Policy Framework complied with the provisions of applicable policy – OD 4.30. The Panel commends Management for broadening the range of situations where Policy would apply, reflecting new thinking within Bank at the time regarding the proper application of the Bank's safeguards.</p>	184-194	<p>Comment: Management concurs with the Panel's finding.</p>
17.	<p>The Panel finds that there are several ambiguities with respect to how the RPF should be triggered and applied. The Panel finds that the design of the RPF fell short of the provisions anticipated in OD 4.30 with respect to <i>"planning principles, institutional arrangements, and design criteria."</i></p>	195-203	<p>Comment: Management concurs that there are several ambiguities concerning the triggering and application of the RPF. As previously noted (MR 52), Management acknowledged that a <i>"... lack of specificity"</i> in the Project documents concerning resettlement and <i>"apparent absence of detailed discussions of the reach of the RPF, either during design or implementation"</i> contributed to the disagreement between Management</p>

No.	Finding	IR ¹ Para No.	Comment
			and the Government as to the scope of Government's obligations under the RPF. However, Management maintains that the terms of the RPF are sufficiently clear to conclude that they apply to the situation at BKL, as has been expressed by Management to Government and in the MR and as the Panel itself finds in its Investigation Report.
18.	The Panel finds that Management's attention to social consequences of land titling, including potential evictions, was not systematic and suffered from a lack of attention from social safeguard specialists. It is a matter of concern that several supervision missions concluded that there had been no situation requiring application of Social and Environmental Safeguards, including RPF, apparently without any careful scrutiny of matter.	204-211	Comment: As previously noted (MR 72), <i>"In retrospect, Management recognizes that supervision of safeguards and other social measures should have been more robust."</i>
19.	<p>Panel finds evidence in supervision records that Management on several occasions raised issues related to State land management potentially relevant for application of the RPF. Panel commends Bank for pursuing this difficult policy issue in Cambodian context, which is both politically sensitive and complex. However, follow-up of these issues was inadequate and contributed to problems in BKL area. This is not in compliance with the provisions of OP/BP 13.05 on Project Supervision.</p> <p>Supervision reports for the Project do not report inclusion of a safeguards specialist in any of the supervision missions, except for the first mission in May 2002.</p>	210-211	<p>Comment: Management agrees that inadequate engagement on safeguard issues contributed to problems in the BKL area indirectly because the obligations of the Government may not have been made sufficiently clear. Management previously acknowledged <i>"that a lack of specificity in the Project documents and the apparent absence of detailed discussions of the reach of the RPF, either during design or implementation, may have contributed to Government's understanding of its obligations"</i> (MR 52).</p> <p>Management acknowledges that the follow up of safeguard issues could have been more robust but would like to clarify that a senior safeguards specialist participated in preparations for the LMAP MTR (September 2004), and in both the ERM (April 2009) and the Safeguards Review Mission (August 2009).</p> <p>The Safeguards Secretariat completed a thematic review of the Cambodia Portfolio in October 2009 in close collaboration with the country and respective sector units. The main objective of the review was to assess the safeguards performance of the Cambodia portfolio. The report made several recommendations for improving performance in the current portfolio and for improving the management of safeguards risks in future projects.</p> <p>Nine consultants from Cambodia (5 social and 4 environmental) participated in the recently completed "Safeguards Training for Consultants" in Bangkok on October 22-26, 2010.</p> <p>A three day "Environmental and Social Safeguards Training for Project Implementing Units (PIUs)" was delivered in Phnom Penh, December 15-17, 2010. The 35 participants included project managers, social and environmental safeguard officers, and engineers who are directly involved in the preparation and implementation of social and environmental safeguards at national and sub-national levels.</p>
20.	The Panel finds that the failure of Management to ensure application of the Resettlement Policy Framework was not in compliance with OD 4.30 and with OP/BP 13.05 on Project Supervision.	212-217	Comment: Management's position on the applicability of the RPF is clearly stated in the MR (Annex 1, Item 5): <i>"Management concurs that the Borrower is obligated to apply the RPF described in the ESG to displacements or threatened displacements from the Sras Chok adjudication area. Under these circumstances, the Government should have prepared resettlement plans for Bank review and approval."</i> Management's efforts to ensure RPF application even after Project closure are described in detail in the MR and updated in this Report (see

No.	Finding	IR ¹ Para No.	Comment
			<p>Section VII of this report and Annex 2).</p> <p>Management notes that its insistence on this issue precipitated Government's decision to close the Project prematurely. Management regrets that further dialogue was cut short by an inability to find common ground between the Bank, Development Partners, the Government and civil society groups advocating on land issues.</p>
21.	<p>Overall, Panel is of view that Bank Management should have detected serious problems faced by people in BKL area at an earlier stage, and considered appropriate actions. Failing to do so was not in compliance with Bank Policy on Project Supervision.</p>	218-233	<p>Comment: Management acknowledges the Panel's view that serious problems faced by people in the BKL area could have been identified earlier but would like to clarify that no threats of eviction are known to have been reported prior to August 2008. To the contrary, up until that point local officials were offering (false) assurances that there would be no evictions, and were publicly referencing a clause in the BKL lease that required the developer, Shukaku Inc., to provide on-site resettlement options for BKL residents (IR 96).</p> <p>As noted in the Request for Inspection, "... in 2008 [August], when the developer began its works, residents of the community started facing pressure and intimidation to leave the area and, a year later [August 2009], many families received formal eviction notices" (Request for Inspection, pg 2). Of the approximately 20,000 people who lived there, it is estimated that half have already been resettled or forced to move due to site preparation activities and associated flooding since the developer began operations in the area in August 2008. Formal eviction notices were first delivered to Villages 2 and 4 in August 2009 and the most recent eviction notice was given to residents in Villages 22 and 24 in November 2010.</p> <p>NGO representatives first queried the adjudication status in "the Boeung Kak Area of Phnom Penh" in a letter dated January 18, 2009 and raised concerns about LMAP and evictions in a letter dated February 12, 2009. (MR Annex 4, <i>Detailed Timeline on the BKL Evictions and the Bank's Response</i>, pg 78).</p> <p>Management would like to clarify that its decision to undertake an Enhanced Review of LMAP was prompted by an apparent acceleration of evictions in January 2009. As mentioned in the MR: "In the early morning of January 24, 2009, armed police forcibly evicted residents from another urban settlement known as Dey Krahom." In mid-February, NGOs asked to meet with Bank Management to discuss concerns about the inability of poor residents of the Dey Krahom communities to access the titling system before their eviction. During the same month, one NGO wrote to Management about a neighboring community, "Group 78" that was also threatened with eviction.</p>
22.	<p>The Panel finds that the RPF is generally in compliance with OD 4.30. There is, however, a lack of guidance as to rehabilitation and income restoration activities that, according to the RPF, should have been detailed in a resettlement plan.</p>	218-234	<p>Comment: Management concurs with the Panel's finding. Management has also reported on the concerted efforts to maintain dialogue with Government and the Requesters on the actions taken to address harms since the MR. (see main text from paragraph 43 onwards. See also Annexes 2 and 4).</p>
23.	<p>The Panel finds that the process of carrying out evictions in the BKL area, the level of compensation, and the standard of resettlement sites do not follow the principles laid down by the RPF and the related provisions of OD 4.30.</p>	218-235	<p>Comment: Management has not had an opportunity to review actual compensation, offered or paid, or the standard of resettlement sites due to the Government's decision to prematurely close the Project. As stated in the 2009 Response, "... it appears that the proposed packages were not equivalent to what the residents would have received had the RPF been applied." (MR 79)</p>

No.	Finding	IR ¹ Para No.	Comment
			Subsequent efforts to develop a resettlement project for Phnom Penh, including former BKL residents, have been rejected by Government to date (see main text, paragraph 43 and Annex 2).
Claim that the Titling Process Adopted By the Project Weakens Pre-existing Tenure Rights			
24.	The Panel notes that the Project undoubtedly has benefitted approximately 1 million households and recognizes this important achievement of LMAP.	236-248	Comment: Management acknowledges recognition of this important achievement and notes that the number of LMAP title recipients through September 2009 is 1.24 million [Source: LMAP Adjudication Data through September 2009 provided November 2, 2010]
25.	The Panel finds that design flaws in the Project led to the arbitrary exclusion of lands from titling process and that this denied residents, especially the poor and vulnerable, the opportunity to claim and formalize their pre-existing rights through the adjudication process under LMAP.	249-263	Comment: See Items 5-7, above. Management would like to reiterate that within Adjudication Areas the Project was not designed to exclude lands subject to disputes but to resolve such disputes where possible at field level and to facilitate the resolution of more serious disputes through other mechanisms. Management has previously recognized "... that attention had shifted towards fiduciary aspects and the issuance of titles, and that it missed opportunities to engage the Government on the dispute resolution mechanisms in the Project and on how to respond to changing circumstances (e.g., the unanticipated exponential growth of land values and resulting land conflicts in Phnom Penh)." (MR, p. vii)
26.	Panel finds that Management failed to acknowledge that terms like 'squatter' and 'informal settlements' are subjective until determined in fact through process of adjudication.	264-265	Comment: See Item 6, above.
27.	These design flaws made it difficult for Bank Management to achieve the stated objectives of Project related to poverty reduction and providing tenure security for poor, and thus did not comply with OMS 2.20.	264-265	Comment: Management would like to clarify that while the overall goals of LMAP were to reduce poverty, promote social stability, and stimulate economic development, the specific objectives of the Project were to improve land tenure security and promote the development of efficient land markets. Systematic titling by definition is not targeted at the household level and the PDOs of the Project did not include "poverty reduction" or specific targets with respect to the poor (see Item 7 above). Management also would like to clarify that based on a Beneficiary Assessment and recent analysis undertaken during preparation of the Implementation Completion and Results Report it appears that the Project contributed to progress on its specific objectives. Titling – targeted towards ordinary rural Cambodians – is widely perceived as having contributed to improved land tenure security. Management also recognizes that although LMAP's design assumed the Project would deliver a roughly equal number of titles in urban and rural areas, this balance was not achieved. At the time of Project closure, 1.58 million plots had been surveyed and approximately 1.24 million titles (76%) had been distributed to beneficiaries; 92% of titles were for rural plots and only 8% were in urban areas.
28.	The Panel finds that not all measures specifically designed to support poor and vulnerable people were implemented as planned. The Panel finds that Management did not adequately follow up Project commitments to strengthen public awareness and community participation, to ensure legal protection to residents exposed to risk of eviction, and to provide adequate access to dispute resolution	266-270	Comment: Management previously acknowledged that, "despite investing significant time and resources in supervision during implementation, following the Mid-term Review (MTR), both Project performance and the relationship with the Ministry began to deteriorate and the focus of implementation shifted towards fiduciary aspects and key outputs, most notably the issuance of titles" (MR 65-67). Management also previously recognized "shortcomings in supervising the

No.	Finding	IR ¹ Para No.	Comment
	mechanisms. This was not in compliance with OP/BP 13.05.		<p><i>implementation of Sub-component 3(a) - Information Dissemination and Community Participation; Sub-component 4(c) - Legal Assistance for the Disadvantaged; and Component 5 - Land Management.</i>" (MR 68)</p> <p>Despite repeated procurement attempts, no NGOs were hired to support public awareness and community participation or to provide legal assistance services (MR Annexes 8A and 8B). As Management noted in the MR (Annex 1, Items 6 and 7) <i>"While the proposed involvement of NGOs in Project implementation was innovative at the time the Project was designed, the mechanism to implement it (i.e., contracting by the PMO) was not adapted to the country circumstances."</i></p>
Claim that other communities in Project provinces are experiencing forced evictions.			
29.	The Panel notes that forced evictions are not new in Cambodia and, as noted in the Bank's Poverty Assessment in Cambodia, have been ongoing in Phnom Penh since well before preparation of Project. Since the Project included major urban settlements including Phnom Penh among its Project provinces, this was a significant reputational risk for the Bank. The Panel notes that Project design did not adequately address this important problem and reputational risk.	271-276	<p>Comment: Management agrees that, especially as land prices increased, forced evictions became a key issue and should have been addressed sooner.</p> <p>At the time of LMAP design there was an ambitious parallel program to address informal settlements (focused on Phnom Penh) which was publically supported by the Cambodian Prime Minister. The sudden end of the informal settlements program in 2004 left an important gap that Management has acknowledged previously (MR 36; see also Item 8). This gap could have been addressed with a restructuring during the period of Project suspension or before the extension of the Closing Date in December 2007.</p> <p>As Management previously acknowledged <i>"... several opportunities were missed to restructure the Project. The need for Project restructuring, initially limited to Component 5, was identified at the MTR in October 2004 but never formalized either by the Task Team or by Management, who were absorbed by the Fiduciary Review and its revelations of corruption."</i> (MR 69).</p>
30.	Despite the clear findings of the Independent Review and repeated findings in Management supervision reports indicating inadequacy of dispute resolution mechanisms, especially when powerful parties are involved, Bank Management did not take concrete measures to address these adverse impacts.	277-280	<p>Comment: Management recognized previously (MR 73) <i>"..... that supervision was also insufficient with respect to broader social protection measures that were intended to apply more generally throughout Project provinces. As with safeguards, issues such as access to a fair and effective conflict resolution mechanism, community participation and public awareness and information programs did not receive sustained attention during supervision."</i></p> <p>Management would like to clarify that the Independent Review (February 2006) cited by the Panel (IR 174) was a draft report prepared under contract to other Development Partners. The cited report was never finalized or accepted by Government. Management did receive an earlier report of a <i>Pilot Independent Review</i> by the same author (February 2005) but the findings cited by the Panel were not included in the earlier report. Management understands that disagreements over the 2006 report's methodology and findings kept it from being finalized and shared. In Management's view, despite methodological flaws, the 2006 report raised valid concerns and proper consideration of the report might have brought the issue of adjudicating private claims on land claimed by the State to prominent attention at an earlier point in Project implementation.</p>
31.	Panel notes that although there are several documents indicating that a significant number of families were adversely affected, the extent of the negative impact on families living in adjudication	281-284	<p>Comment: Management shares the concern of the Panel and has undertaken a review of overlaps between land disputes and LMAP Adjudication Areas. <i>"A number of people have been resettled without appropriate process from sites determined to be State Public Land in</i></p>

No.	Finding	IR ¹ Para No.	Comment
	<p>areas is unknown. The Panel is extremely concerned about the large number of people who were forcibly evicted, displaced or are under threat of eviction in Project areas.</p>		<p><i>Phnom Penh and other cities in Project provinces, and where the Project was not engaged in titling activities. Management will try to engage the Government in a dialogue on the need to assess these resettlement sites and to improve their conditions. This would be important from a social and development perspective.” (MR 86)</i></p> <p>Based on this desk review of land disputes reported in media and NGO reports, Management has identified an estimated 8,448 households (in addition to approximately 4,000 in BKL) falling into the broad category of reported evictions, pending evictions or other multi-party land disputes in communes where LMAP systematic titling was active. Initial field research has been carried out in relation to a sample of 16 of these communities involving 5,660 households. Though this research is preliminary and does not provide the basis for conclusions on the applicability of the RPF to individual communities it is clear that State claims over currently occupied land underlie a significant proportion of these disputes. In a number of these cases preliminary research also suggests that residents have good faith claims to recognition as lawful possessors. Similarly to the BKL case households’ claims in these areas were not registered as part of the titling process on the basis of assertions that they were unlawful occupiers of State land. Applying the reasoning in the 2009 MR, there is potential for decisions in favor of the State that lead to the eviction of households from these sites to again trigger the LMAP RPF.</p> <p>Key findings of the Survey are presented in Annex 7.</p>
32.	<p>A review of supervision reports shows that there was no monitoring and evaluation system for the Project until 2007. The Panel finds that due to the lack of a robust monitoring and evaluation system for Project, Bank Management did not become aware of significant issues arising from Project. This does not comply with OP/BP 13.05.</p>	285-286	<p>Comment: Management acknowledges that the failure to define how and by whom the M&E system was supposed to be designed was a shortcoming of both Project preparation and appraisal. In addition, the PAD Results Framework was weak and the Key Performance Indicators (outcome/impact indicators) included in the Design Summary were not well defined, making the preparation of the required baselines and data collection mechanisms an unnecessarily difficult task.</p> <p>However, the need to establish an M&E system was insisted upon during supervision and reiterated in the MTR. An M&E Manual was finally adopted in December 2006 and the Project had begun to apply the M&E system through a unit that had received special training. The M&E system was described as functioning well by mid-2008, although it was still inadequate to alert the Task Team to the problems that were arising in LMAP titling areas.</p>

ANNEX 2

STATUS OF MANAGEMENT’S ACTION PLAN OF NOVEMBER 2009

No.	Actions	Status (as of December 10, 2010)
Supporting the Communities that Have Been Affected		
1	<p><u>[Social Impact Assessment]</u> “Management is committed to undertaking an assessment of the social impacts on the affected communities in BKL (...) Management will ask the Government to allow the Bank to undertake the assessment of the households resettled from the BKL area on its own or with the Development Partners” (MR 80).</p>	<p><u>[Actions stalled]</u> Missions in February and March 2010 discussed with Government counterparts approaches to ensure that affected communities are “supported in a way consistent with the agreed Resettlement Policy Framework.”</p>
2	<p><u>[Impact mitigation]</u> “Management will aim to develop, together with the Government and the Partners, a plan that would ensure that negative impacts, particularly on poor and vulnerable affected groups, are mitigated and that social and economic opportunities are developed.” (MR 80).</p>	<p>A potential Bank-supported project to improve living conditions and livelihoods in urban poor communities (including resettlement areas) was discussed in April 2010. However, Government decided not to move forward with the proposed initiative.</p>
3	<p><u>[Use of additional resources]</u> “Management will continue to pursue actions so that people can benefit from a set of protection measures in line with what they would have received under the RPF. Management will pursue with the Government the possibility of using other IDA credits for this purpose, and with donors the possibility of raising trust funds or government funds for this purpose” (para. 81).</p>	<p>Following consultations with the Ministry of Economy and Finance (MEF) and MPP, the Task Team prepared TORs for a rapid needs assessment and scoping of programming options. A local NGO has been identified and is expected to begin the assessment work in January 2011, with support from an international urban development specialist. The selected NGO has an established track record working with urban poor communities and has a strong relationship with the MPP.</p>
4	<p><u>[Identification of other areas where RFP should apply]</u> “Management has already started identifying other potential cases of communities that were resettled or evicted or are threatened with resettlement or eviction from adjudication areas without proper compliance with administrative procedures or implementation of the RPF. Management’s intention is for that review to be completed during the month of November (...) In any areas where the RPF should have been applied, the Bank will adopt the same approach as outlined above for BKL” (para. 82).</p>	<p><u>[Action in progress]</u> Management has continued efforts to identify land disputes outside of BKL that overlap with LMAP adjudication. Research conducted through December 2010 has identified an estimated 12,448 households (this includes 4,000 in the BKL area) across 31 communes falling into the broad category of reported evictions, pending evictions or other multi-party land disputes in communes where LMAP systematic titling was active.</p>
5	<p><u>[Environmental concerns]</u> “Management will also encourage the Government to act on environmental concerns in the BKL area. It will offer to assist the Government in the designing and commissioning of additional investigations or studies that are critical to evaluate various options to mitigate adverse environmental impacts from the filling of the lake” (para. 83).</p>	<p><u>[Action stalled]</u> After Government decided not to move forward with the proposed project to improve living conditions and livelihoods in urban poor communities, discussions on the environmental aspects of BKL have not progressed (item 2 in this table). Management believes that it will only be possible to move this forward if a new dialogue on the BKL development is opened up with Government or the private sector.</p>
Supporting Improvements in Resettlement Policy and Land Dispute Resolution for the Benefit of All Communities at Risk		
6	<p><u>[Dispute resolution/DFGG]</u> “Management will attempt to work with the Government to improve the functioning of existing dispute settlement mechanisms and to enhance the capacity of communities and NGOs to call on it.” (para. 84).</p>	<p><u>[Action in progress]</u> Land Law dissemination work under the DFGG has commenced on a pilot basis in one district in Kamptot Province. Under current plans, a national media campaign and further local dissemination efforts will be launched in 2011. The non-state actor component of DFGG made its first call for proposals in July 2010. The call for proposals included natural resources management as a theme. NGO grants of up to US\$150,000 have been provided. One of these is supporting work on issues related to land tenure.</p>

No.	Actions	Status (as of December 10, 2010)
7	<p>[Resettlement policy] "Management will seek to work with the Government to finalize the national legal and policy framework for resettlement so that a fairer and more systematic approach for addressing and mitigating adverse impacts on people from land titling activities can be developed" (para. 85).</p>	<p>[Action partially completed, but concerns regarding implementation] During the past year there have been a number of policy developments, including passage of: (a) a Law on Expropriation (January 2010); and (b) a Circular on Resolution of Illegal Temporary Settlements in City and Urban Areas (Circular No. 3; May 2010). Government has drafted a Housing Policy and sought public input on the draft. Bank staff members have provided comments on draft documents through the TWG-L. To date, however, these policy developments have had limited impact on the ways in which Government is dealing with communities like those in BKL and concerns exist that Circular #3 is not enjoying broad implementation. Another relevant instrument, the Sub-Decree on Addressing Socio-Economic Impacts caused by Development Projects, was drafted with support from the Asian Development Bank through 2008 but has not been finalized.</p>
8	<p>[Resettlement in Project provinces] "A number of people have been resettled without appropriate process from sites determined to be State Public Land in Phnom Penh and other cities in Project provinces, and where the Project was not engaged in titling activities. The Bank will try to engage the Government in a dialogue on the need to assess these resettlement sites and to improve their conditions" (para. 86).</p>	<p>[Action stalled] Action on this point stalled when Government rejected proposal to develop a project to improve living conditions and livelihoods in urban poor communities (including resettlement areas) in April 2010(see Item 2 in this table).</p>
9	<p>[LASED] "The current LASED project and associated Japan Social Development Fund (JSDF) grants are piloting the provision of Social Land Concessions (SLCs) to poor households in different contexts and will continue to focus on ensuring that project features designed to ensure transparency and effective citizen participation are successfully implemented" (para. 88).</p>	<p>[Action in progress] The LASED project is proceeding with implementation as are the associated JSDFs. To date (December 2010) LASED has delivered livelihood and investment support services covering a total of 6,849 registered hectares in five communes benefiting 1,254 land recipients (against targets of 10,000 hectares; 20 communes; 3,000 recipients).</p>
10	<p>[Additional JSDFs] "Additional JSDF grants flagged in the CAS Extension (2008-2011) addressing tenure issues in vulnerable communities – rural and urban– will be pursued as a matter of priority and developed in cooperation with relevant NGOs and government agencies" (para. 88)</p>	<p>[Action in progress] Two JSDFs are under consideration. A JSDF seed fund application for <i>Organizing for sustainable livelihoods in indigenous communities</i> has been prepared, cleared by Management and approved by the JSDF Secretariat. A JSDF proposal for <i>vulnerable urban communities</i> will be prepared, based on outcomes from the needs assessment (due to begin in January 2011).</p>
11	<p>[CAS Process] "Starting in December 2009, Management will initiate a consultative process to (re)define the role of the Bank in Cambodia and to identify areas of cooperation and modalities of support. The CAS will draw on the lessons from the past few years. It will reflect the level of cooperation between the Bank and the Government and will look critically at what can be achieved realistically in the current environment" (para. 89).</p>	<p>[Action in progress] A CAS Completion Report will be prepared to distill lessons that can be used in shaping the future country strategy, given the current constraints and relationship with the Government. In light of the current circumstances, Management will prepare a short term Interim Strategy Note (ISN) in lieu of a full Country Assistance Strategy (CAS). The aim of the ISN is to rebuild trust with the Government and focus engagement on areas of mutual interest where there is a solid implementation track record and where we can effectively identify and minimize risks.</p>
Learning the Lessons		
12	<p>[Dissemination of Lessons Learned] "Management will set in place a process to learn further and disseminate the lessons, through workshops within the East Asia Region and among land specialists across the Bank" (para. 93).</p>	<p>[Action in progress] A first Annual Safeguards Forum was organized by the Safeguards Secretariat and Safeguards supervision strategies are being developed during appraisal for new operations. Regional Safeguards Specialists are preparing a roster of safeguards consultants to facilitate identification and recruitment of qualified individuals. Training events have included courses for: (a) Phnom Penh based staff and PMU staff; (b) Safeguards Training for PMU staff (Phnom Penh December 15-17, 2010); and (c) Safeguards Training for Consultants (Bangkok Oct 22-26, 2010).</p>

ANNEX 3

PROJECT MILESTONES AND KEY RESULTS

LMAP Milestones

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

LMAP Key Results

Component	Key Results
<u>Component 1</u> : The development of land policy and a regulatory framework	<ul style="list-style-type: none"> • Formulating land policies and regulations necessary for the implementation of all three pillars of the land sector program including systematic titling, sporadic titling, the Cadastral Commission, State land management, economic concessions, SLCs and titling of indigenous lands. • Enabling increased revenue collection from both land taxes and transaction fees.
<u>Component 2</u> : Institutional development	<ul style="list-style-type: none"> • The establishment and operation of key administrative functions for land titling within the MLMUPC. • Developing a university degree in land management and administration.
<u>Component 3</u> : Land titling program and development of a land registration system	<ul style="list-style-type: none"> • By September 2009, more than 1.58 million land parcels surveyed, 1.24 million titles distributed to beneficiaries.
<u>Component 4</u> : Strengthening mechanisms for dispute resolution.	<ul style="list-style-type: none"> • Component helped to establish the NCC and create provincial and district-level commissions for mediating land disputes. • Legal assistance for the disadvantaged piloted with GTZ support, but Project was not successful in recruiting NGOs to continue this work.
<u>Component 5</u> : Land management	<ul style="list-style-type: none"> • Key results limited to development of procedures for land classification and procurement of aerial photographs needed to support land classification and land titling. • Implementation of State land mapping and related processes limited to pilot operations.

ANNEX 4

DETAILED TIMELINE ON THE BKL EVICTIONS AND THE BANK’S RESPONSE

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

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

A timeline of these actions—many of which were repeated numerous times—is shown below (shaded actions were reported in the November 2009 Management Response).

Date	Event/Action
May 2006	Public notice of adjudication zone for systematic land titling under LMAP
May 2006 – January 2007	LMAP Land Registration Teams carry out survey and adjudication in Sras Chok commune. BKL residents request that their individual land claims be recognized
January 4 – February 2, 2007	The public display of the adjudication records showed only village boundaries (with owner listed as “unknown”)
February 6, 2007	BKL Lease agreement signed between MPP and the private developer
April – May 2008	Communities reassured by authorities that there would be no resettlement
June 6, 2008	Supervision mission visit to BKL area (Sras Chok Commune). During this brief visit the PMO informs donors that BKL is State public land and therefore residents are ineligible for titles
July 2008	Letter from Phnom Penh Department of Land Management to MPP describing the boundaries of the “development area”
August 2008	MPP conveys plans for resettlement to communities. Residents of the “development area” pressured to resettle. Most tenure-insecure households living in stilt houses on the lake begin to move away
August 2008	Commencement of lake filling and site development by private developer
August 2008	Re-classification of land to “State Private”
November 2008	Bank learns that NGO is preparing a report on LMAP
November 10, 2008	Bank Task Team contacts NGO
November 20, 2008	Bank Task Team meets with NGOs
January 12, 2009	BABSEA requests information on adjudication status of Boeung Kak area of Phnom Penh (BKL and Sras Chok are not mentioned)
January 20, 2009	Task Team facilitates meeting of NGOs with TWG-L and LMAP Project Director; NGOs give a Powerpoint presentation
January 24, 2009	Eviction of Dey Krahorm community
February 18, 2009	Country Director (CD) receives letter from BABSEA
February 23, 2009	Task Team shares BABSEA letter with PMO and LMAP Development Partners
February 20-26, 2009	Bank Management meetings to review issues

Cambodia Land Management and Administration Project

Date	Event/Action
March 2-3, 2009	Discussions with co-financiers (Germany, Canada, Finland)
March 4, 2009	CD travels to Phnom Penh to meet with NGO and Dey Krahom representatives in the Bank's Office to hear their concerns
March 4, 2009	Letter from Community Legal Education Center (CLEC) to CD regarding Group 78 eviction
Shortly thereafter	Decision to undertake an ERM of LMAP
March 11, 2009	Letter from Country Manager (CM) to Senior Minister of Land (Sr. ML) regarding 11 th Multi-Donor Supervision Mission and actions to fulfill covenants, including two complaints raising concerns about evictions
March 24, 2009	Letter from CM to Sr. ML to announce LMAP ERM
April 1-10, 2009	LMAP ERM is in Cambodia
April 8 or 9, 2009	CD and Regional Vice President (RVP) meet Secretary General, MEF at ASEAN Finance Ministers Summit and advise him that Bank is undertaking a careful review of the application of safeguards to the land disputes/evictions
April 9, 2009	Letter from BABSEA addressed to "the Board of the World Bank Group" attaching a confidential draft report with list of questions, including reference to potential Inspection Panel request. BABSEA Director subsequently clarified that report had not been sent to the Board, Government or other Development Partners but would be shared only after receiving response from Management. Actual distribution took place in October 2009
April 10, 2009	SD and CM meet with Sr. ML and raise concerns about the evictions during a broad discussion on land issues
April 20, 2009	Notification from MPP to all residents living on Sour Srun Company's land (Group 78) and public road
April 27, 2009	Letter from CD to BABSEA, CLEC, JRSC responding to their letter of April 9, 2009
April 30, 2009	In meeting with Deputy Prime Minister (DPM), CM: (i) provides briefing on the preliminary findings of the ERM; (ii) raises concerns about evictions and pending evictions of Group 78 residents; (iii) requests assistance in arranging meetings with MPP Authorities and the Senior Minister of Land; and (iv) suggests a temporary moratorium on evictions
April 30, 2009	CD writes to DPM to follow up on CM's meeting of the previous day and again expresses same concerns; suggests a temporary moratorium until a policy and legal framework for resettlement is in place
May 3, 2009	CD and RVP meet with Secretary of State, MEF and Deputy Secretary General, MEF at Asian Development Bank Annual Meetings in Bali. RVP expresses concerns about LMAP implementation; Secretary of State (who was briefed ahead of time by CM) indicates that he is aware of the issues, but that he has been advised that the evictions were outside the scope of LMAP. Bank team indicates that there were ongoing discussions/investigations about the nature of the linkages with LMAP; agrees to discuss the issues further with the authorities
May 5, 2009	CM meets with the Deputy Governor of Phnom Penh to (a) raise concerns on the evictions and possible links to LMAP; and (b) ask for a moratorium on evictions
May 6, 2009	CM meets with Sr. ML to: (a) raise concerns on evictions and possible links to LMAP; and (b) ask for a moratorium on evictions; Sr. ML insists that there is absolutely no link between any evictions and LMAP
May 18, 2009	CD in Phnom Penh; meets with DPM and again raises same concerns
May 27, 2009	CD and CM meet with Sr. ML to share: (a) preliminary findings from ERM; and (b) concerns about the evictions and possible links to LMAP, as well as to stress the need: (c) to adhere to safeguards guidelines; and (d) for a moratorium on evictions. Again, Sr. ML insists that there is no link between any evictions and LMAP
June 4, 2009	CD and CM meet with land NGOs and the Bank Information Center in Bangkok. Update provided on situation of evictees from Dey Krahom and possible Group 78 eviction
June 12, 2009	Task team facilitates meeting between NGOs and TWG-L
July 8, 2009	CD letter to DPM following up letter of April 30
July 15, 2009	Bank shares the ERM Report with authorities through letter from CD to Sr. ML
July 16, 2009	The Bank issues a joint statement with other Development Partners calling for a halt to evictions of Cambodia's urban poor
July 17, 2009	CD meets with Sr. ML to discuss ERM report and concerns about the handling of land disputes in Phnom Penh
July 17, 2009	Eviction of Group78 community

Date	Event/Action
July 22, 2009	CD letter to Sr. ML following up on meeting of July 17; raises concerns about the BKL residents and proposes a supervision mission for LMAP with expertise on resettlement issues
July 22, 2009	64 Cambodian and International NGOs endorse July 16 Development Partners joint statement
July 30, 2009	CD second letter to authorities proposing an Environmental and Social Safeguards Review Mission in early August to: (a) review implementation of safeguards in relation to land allocation and land titling activities in BKL area; (b) assess environment impacts of lake filling and related dredging; and (c) assess social impacts of filling of the lake and dredging on adjacent communities
July 30, 2009	Letter from CM to Phnom Penh Governor twice requesting meetings for the Safeguards Review Mission
July 31, 2009	Letter from Acting CM to Secretary of State at Council of Ministers to request a meeting with Safeguards Review Mission
August 3-5, 2009	Safeguards Review Mission in Cambodia
August 4, 2009	Second letter from CM to Phnom Penh Governor requesting meetings for Safeguards Review Mission
August 5, 2009	Letter from Task Team Leader to LMAP Project Director requesting information for Safeguards Review Mission and reminding of obligations under the DCA
August 5, 2009	Meeting with community representatives and NGOs at NGO Forum
August 10, 2009	First formal eviction notices (BKL Villages 2 and 4)
August 13, 2009	Letter from CM to Phnom Penh Governor requesting meeting to discuss issues related to BKL area
August 14, 2009	Letter from Cambodian Housing Rights Task Force to CD and Task Team Leader regarding the ESG and the RPF
August 17, 2009	Letter from CD to Sr. ML to: (a) raise concerns about the evictions and the link between BKL and LMAP; and (b) remind of obligations under the DCA
August 21, 2009	Letter from Acting CM to Phnom Penh Governor requesting meeting to discuss issues related to BKK Lake area
August 21, 2009	Meeting with community representatives and NGOs at Bank Phnom Penh office
August 27-28, 2009	Visit of RVP to Cambodia. Meets with 3 DPMs, PM's Adviser, Sr. ML, Minister of Commerce, NGOs and Development Partners. PM cancels meeting with RVP. All discussions focus on LMAP, including the need for: (a) a moratorium on evictions; and (b) a resettlement policy. Offers to support the authorities to: (c) put into place a legal and policy framework; and (d) help upgrade resettlement sites. RVP proposes a joint suspension of the Project while work is ongoing to improve resettlement policy and regulatory framework
September 4, 2009	Council of Ministers decides to cancel remaining LMAP Credit. DPM informs CM of Government's decision to cancel LMAP with immediate effect; indicated that formal letter is forthcoming
September 4, 2009	The Inspection Panel receives a Request for Inspection, IPN Request RQ 09/08, concerning LMAP
September 6, 2009	Bank issues public statement and posts ERM report on the web
September 7, 2009	Bank receives letter (DPM, MEF to RVP) requesting cancellation of undisbursed balance of LMAP Credit
September 18, 2009	Bank response (RVP to DPM, MEF) to cancellation letter in which Management reminds the Government of its ongoing obligations under the Project
September 24, 2009	Letter from CD to DPM, MEF regarding cancellation of undisbursed amount
September 24, 2009	The Executive Directors and the President of the Bank are notified of receipt of the Request
September 28, 2009	Release of NGO report <i>Untitled: Tenure Insecurity and Inequality in the Cambodian Land Sector</i> , by BABSEA, COHRE, and JRSC
October 1, 2009	COHRE press release (http://www.cohre.org/inspectionpanel)
October 8, 2009	Letter from CD to DPM, MEF regarding processes for closing the LMAP Credit and Designated Account
October 9, 2009	Letter from CD to DPM, MEF regarding cancellation of CIDA TF053043
October 9, 2009	Letters from CD to DPs (CIDA, German Embassy and Embassy of Finland) regarding cancellation of LMAP undisbursed balances
November 2, 2009	Management issues its Response to the Request for an Inspection Panel Review of LMAP
November 16-19, 2009	Inspection Panel mission to Cambodia for the Eligibility Stage

Date	Event/Action
December 7, 2009	Inspection Panel issues preliminary eligibility report
January 14, 2010	Law on Expropriation completes passage through national legislature
February 22-26, 2010	1st technical mission to Phnom Penh to discuss a potential program to improve the livelihoods and living conditions of poor urban communities (including resettlement areas)
March 13-20, 2010	2 nd technical mission to Phnom Penh to discuss a potential program to improve the livelihoods and living conditions of poor urban communities (including resettlement areas)
March 17-20, 2010	RVP visits Cambodia to further discuss with authorities actions and options to support the affected people and a potential program to improve the livelihoods and living conditions of poor urban communities
March 18, 2010	Meeting between RVP and DPM. DPM informed RVP of Government's decision not to proceed with a potential program to improve the livelihoods and living conditions of poor urban communities
March 23, 2010	CD and CM meet with representatives of BABSEA and COHRE
March 24-25, 2010	CLP organizes public consultation workshop on draft national housing policy
March 31, 2010	Inspection Panel issues final eligibility report
April 29, 2010	CLP solicits written comments on revised draft national housing policy
May 22-29, 2010	Inspection Panel undertakes second mission to Cambodia for investigation phase
May 31, 2010	Government passes Circular #3 on the Resolution of Illegal Temporary Settlements on State Land Illegally Occupied in Urban Areas
July – October, 2010	Filling of BKL and seasonal rains cause flooding in the BKL communities.
July 29, 2010	Local press reports BKL resident dies of electrocution while trying to fix a light in a flooded house.
August 16, 2010	CM and Communications Officer meet with a resident of the BKL area to hear his update on his family's situation following their eviction
August 23, 2010	Local press reports that security forces disrupt a meeting of BKL residents at the National Institute of Pedagogy in Phnom Penh
August 24, 2010	Meeting with BKL community representatives at Bank offices in Phnom Penh to discuss: (a) Bank willingness to provide technical advice in further developing proposals for on-site housing; and (b) continued Bank support for dialogue with other Development Partners, the private sector and Government with a view to finding an improved resolution of the BKL issue
September 1, 2010	BKL resident presents an update on the situation of her community at the TWG-L Development Partner meeting at Bank offices in Phnom Penh explaining that "BKL residents are crying for help from the donor community fearing that the Government would turn down their proposal and evict them off their land at the end" (TWG Minutes).
September 28, 2010	Teleconference with NGOs working on onsite housing upgrades options for the BKL communities including World Bank Urban Development Specialist, concludes that technical discussions on the development of onsite housing options are premature until there is an opening to discuss the issue with the municipality.
October 1, 2010	Authorities intervene to disband a meeting of BKL residents at the National Pedagogical Institute
October 28, 2010	Residents of BKL and other communities under threat of eviction demonstrate demanding an audience with visiting UN Secretary General Ban Ki-moon. Community spokesperson, Suong Sophorn, detained.
November 17, 2010	Local press reports that residents of BKL Village 22 received a notice, signed by Khan Governor Sok Sambath, urging them to accept compensation within seven days from November 17 or face "strict measures"
November 23, 2010	Bank Management receives LMAP Inspection Panel Investigation Report
November 24, 2010	BKL Villages 22 and 24 receive eviction notices.
December 1, 2010	Local press reports that the Senate's Commission on Human Rights Reception of Complaints and Investigation has sent a letter urging H.E. Kep Chuktema, the Governor of Phnom Penh, to act to resolve the ongoing dispute between residents of the Boeung Kak Lake area.
January 7, 2011	CM meets with Counselor and Head of Development Cooperation, Embassy of Canada.
January 10, 2011	CD, SL and TTL meet with Counselor and Head of Development Cooperation, Embassy of Canada in Bangkok.
January 12, 2011	CM and TTL meet with Counselor, Development Cooperation, Embassy of German, GTZ Representative, GTZ

Date	Event/Action
	Team Leader for LMAP, and Embassy Intern.
January 14, 2011	TTL meets with Counselor and Head of Development Co-operation, Embassy of Finland in Bangkok.
January 19, 2011	CD and SL meet with Ambassador of Germany and Counselor, Development Cooperation, Embassy of Germany.
January 19, 2011	CD and SL meet with the Requestors, the Executive Director Bridges Across Borders Cambodia and Representatives of BKL Residents/Communities.

ANNEX 5

DONOR STATEMENT AND NGO RESPONSE

PUBLIC STATEMENT

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

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

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

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

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

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

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

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

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

Statement from Non Government Organizations (NGOs)

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

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

For further Information:

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

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

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

Mr. Dr. Sin Somuny, Executive Director of Medicam
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Mr. Sia Phearum, Housing Rights Task Force secretariat
Tel: 012 852 325

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

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

ANNEX 6

GUIDE TO KEY LEGAL TERMS AND INSTRUMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sporadic titling: The process of determining rights to land and issuing and registering title to parcels upon the request of the person claiming ownership to the land, under *Sub Decree on Sporadic*

Land Registration [No. 48 ANK May 31, 2002]. As contrasted to systematic titling which is designed to cover all land within a given Adjudication Area, sporadic titling is an “on demand” process that is not restricted to an **Adjudication Area**.

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

Adjudication: The process to be followed in carrying out systematic titling in an **Adjudication Area**, involving the following steps: 1). a public “opening meeting” at the beginning of the process to explain the procedures, clarify legal matters and answer questions; 2) a demarcation process by which the boundaries of each parcel are demarcated with the participation of owners or holders of that parcel and its neighbors; the inclusion of the demarcated parcels in a cadastral map; 3) an investigation and recording of the rights associated with each parcel in the adjudication record based on all available evidence including oral information; 4) a public display period for people to view the maps of adjudicated parcels; and 5) an opportunity to present objections and the resolution of disputes by a local Administrative Commission and, if disputes cannot be settled at that level, by the National Cadastral Commission.

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

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

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

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

ANNEX 7

SUMMARY OF RESEARCH ON DISPUTES AND EVICTIONS IN LMAP TITLING AREAS

1. The November 2009 Management Action Plan includes the following undertaking with regard to **Identification of other areas where the RPF should apply**: “Management has already started identifying other potential cases of communities that were resettled or evicted or are threatened with resettlement or eviction from Adjudication Areas without proper compliance with administrative procedures or implementation of the RPF. (...) In any areas where the RPF should have been applied, the Bank will adopt the same approach as outlined above for BKL” (see 2009 Response, paragraph 82).

2. In November 2010, MLMUPC provided Management with a full list of 232 communes in which LMAP supported systematic titling through September 2009. Based on NGO records and media monitoring, Management has identified 234 communes in which evictions, pending evictions and multi-party disputes are reported by NGOs or the media, out of which 31 communes overlap LMAP Adjudication Areas (see Maps 2 and 4). On this basis, the chances of such an event being reported in an LMAP commune (at 13.4 percent) is slightly below that for a non-LMAP commune (at 14.6 percent) see table below.

Evictions, pending evictions and multi-party disputes reported by NGOs and Media in LMAP and Non-LMAP Communes

Households Involved	LMAP Communes / Households	Non-LMAP Communes / Households	Total Communes / Households
Unknown Number of Households	1 / ?	28 / ?	29 / ?
5-100 Households	8 / 350	99 / 4,127	107 / 4,477
101-300 HH	11 / 2,013	40 / 7,599	51 / 9,612
301-500 HH	7 / 3,158	23 / 9,244	30 / 12,402
501-1000 HH	3 / 2,341	9 / 6,631	12 / 8,972
>1000 HH	1 / 4,586	4 / 6,381	5 / 10,967
Total Communes / HH	31 / 12,448	203 / 33,982	234 / 46,430

	LMAP Adjudicated Communes	Non-LMAP Communes	All Communes
Communes	232	1,389	1,621
Communes with evictions, pending evictions and multi-party disputes reported by NGOs or Media	31	203	234
Frequency	13.4%	14.6%	14.4%

3. Broken down to the level of households, this research has identified an estimated 8,448 households¹ (in addition to approximately 4,000 in the BKL area) across 31 communes falling into the broad category of evictions, pending evictions and multi-party disputes reported by NGOs/media in areas where LMAP titling activities were carried out through September 2009.

4. Initial field research has been carried out in relation to a sample of 16 of these communities involving 5,660 households. Although this research is preliminary and does not provide the basis for conclusions on the applicability of the RPF to individual communities, it is clear that State claims over currently occupied land underlie most of these disputes. In many of these cases preliminary research also suggests that residents have good faith claims to recognition as lawful possessors. Similarly to the BKL case, it would appear these households were excluded from making claims as part of the titling process on the basis of assertions that they were not lawful possessors. Applying the reasoning in the 2009 Management Response, there is potential for decisions in favor of the State that lead to the eviction of households from these sites to again trigger the LMAP RPF.

5. Additional data is available on urban poor communities in Phnom Penh based on a December 2009 *8 Khan Survey*.² According to this data, in the 39 Phnom Penh communes titled under LMAP there are more than 100 poor urban communities housing more than 10,000 families that did not receive titles (compared to approximately 10 communities with 2,000 families that did). A rapid appraisal of a sample of 12 of these communities revealed that eight (two thirds) had not been titled because the State asserted a claim over the land in question (for example because it was part of the right of way for a road, a railway reservation or in one case a former government cinema). Of the remaining four sites, one had recently been titled, one community is itinerant and comprises only tenants, and two are more recent resettlement sites with unclear tenure arrangements.

6. In summary, Management notes that it has collected a significant amount of data related to the identification of areas where “the RPF should apply.” However, for the reasons already described concerning lack of progress on the overall Management Action Plan, Management has thus far not been in a position to act upon this information in order to ensure proper implementation of steps to assist the affected people in these communities.

¹ This analysis uses secondary data from multiple sources and the World Bank has not been able to independently confirm all reports, therefore reported household numbers must be considered indicative only

² Available at: <http://teangtnaut.org/download/The-8-Khan-Survey-2009.pdf>