

CONVERSION OF THE WORLD BANK'S POLICY ON INVOLUNTARY RESETTLEMENT
Substantive Comments from Executive Directors on Draft OP/BP 4.12, dated July 25, 2000
March 6, 2001

S.no	Para Ref.	Comment	ED Office	Response and Rationale
1	General	Does the OP/BP represent mandatory, minimum requirements? Would there be situations where the Bank insists on measures additional to those strictly required by the policy.	Hyden	The OP/BP contains mandatory requirements, except where explicitly stated otherwise. For example, OP, Para 31 contains non-mandatory provisions describing ways in which the Bank may provide assistance to borrowers. The Bank and the Borrower may agree in certain cases to actions beyond those required in the OP/BP, but the rationale would be for development reasons and not because they were required under the policy.
2	General	Would the OP/BP's requirement to compensate all "losers" result in the Bank not supporting some welfare enhancing projects?	Hyden	The policy requires only that compensation or other assistance be provided to those "losers" who are directly impacted by a project due to the taking of land or restriction of access to protected areas, so as to improve or at least restore their livelihoods. The cost-benefit analysis of such project should take into account the need to provide compensation and other resettlement assistance for these persons. If the project's feasibility is dependent on not providing such persons with the required resettlement assistance, it is unlikely that the Bank would want to be associated with it.
3	General	Since OP/BPs are Bank Management's instructions to Bank staff, would it not be preferable to cast all requirements in terms of Bank requirements, rather than as requirements for the Borrower?	Hyden	The objectives of the OP/BP can only be met by measures undertaken by borrowers in implementing Bank-assisted projects. Thus, the OP/BP provides both the actions that are required of the borrower, and the actions staff must take to ensure that the borrower has taken these actions. For this reason, not all requirements are cast in terms of Bank requirements.
4	General	Should the conversion of OD4.30 await a more comprehensive discussion of safeguard policies?	Piercy	Management believes that the process of policy conversion should not be suspended even if a shift in basic approach to safeguards is envisaged for the long term, since such shift could take many years to complete.
5	General	The term "involuntary" implies that the displaced persons are being relocated against their wishes. Since most resettlement programs are designed in a participatory manner, the term "involuntary" should be	Singh	The term "Involuntary" is used because the displaced persons do not have the option to refuse displacement. While they may fully participate in the design of the resettlement program and may be fully satisfied with the resettlement measures, their resettlement remains "involuntary", since they do not have the choice of continuing to remain in their current location.

		dropped and the policy should be called “Resettlement”.		
6	General	Why were consultations held only with fourteen national governments. Could Management share the results of these consultations with the EDs?	Abraham	Consultations with government agencies were held in two countries in each region with the highest incidence of resettlement in Bank-assisted projects. Two more countries were added due to expression of interest from government agencies in these countries. The results of the consultations are summarized in the matrix circulated on January 16, 2001 to CODE.
7	General	What is the role of the country’s laws and country’s courts in adjudicating resettlement cases.	Abraham	The judicial system of the country is key to the resolution of disputes arising out of resettlement. Dispute resolution mechanisms are included in the resettlement plan and take into account the judicial framework of the country. Where possible, the Bank prefers to rely on local legislation regarding provision of assistance to displaced persons. However, in particular cases, additional measures might need to be agreed upon with the Bank in the context of a particular resettlement plan in order to ensure that the policy’s objectives are met. This agreement would be reflected in the legal agreement between the borrower and the Bank. The additional measures would be adopted by the borrower and incorporated in its law, as needed, with respect to the affected people. As a condition of effectiveness of each loan agreement, the borrower provides the Bank with a legal opinion confirming that the legal agreement is valid and binding on the borrower.
8	General	The OP’s emphasis on resettlement issues in the early stage of project preparation would help prevent unnecessary delays in project processing and implementation.	Abraham	Bank experience shows that even the most complex resettlement issues can be adequately resolved if identified and addressed early in the project preparation.
9	General	Resettlement policies and institutions established by borrowers for all projects that involve resettlement are generally more sustainable than those developed solely for Bank-assisted projects.	Singh	The Bank welcomes initiatives to strengthen national and state level resettlement policies. Policies and institutions created only for Bank-assisted projects represent a “fall back” option for situations where local policies and institutions are not adequate.
10	General	Shouldn’t the country authorities be allowed to determine their own strategies	Singh	Country authorities are normally in the best position to design appropriate rehabilitation strategies most suited to local circumstances. Resettlement programs and plans are, accordingly, designed and implemented by country

		for rehabilitation of displaced persons, subject to meeting the basic objectives of the policy?		authorities. The responsibility of Bank staff is to assess the feasibility of proposed resettlement plans in achieving the objectives of the Bank's resettlement policy.
11	General	How has the experience of implementation been incorporated into the policy?	Meyer	<p>The experience of implementation has been incorporated into the policy in a number of ways.</p> <p>The recommendations from OED's two evaluations of resettlement implementation have been incorporated into the policy. Notable among those are:</p> <ul style="list-style-type: none"> • Assessment of the commitment and capacity of borrower implementing agencies to implement resettlement. (OP 4.12, Para 17; Annex, Section 2(c)-2(f); BP 4.12 Para 10 (b)) • Emphasis on widening the range of resettlement strategies for improving the standards of living of affected people.(OP 4.12, Para 6(g), 10, 11) • Emphasis on feasibility of income improvement strategies. (Annex Section 11; BP 4.12, Para 5(d), 10(b)) • Need to conduct early review of resettlement implementation since mid-term reviews are generally too late to influence resettlement implementation, which is typically "front-loaded".(BP 4.12, Para 14) <p>Based on lessons of implementation, the revised policy also provides for:</p> <ul style="list-style-type: none"> • Conducting follow up surveys at project completion to determine the extent to which the incomes and standards of living of affected people have been restored. (OP 4.12, Para 23) • Closer linkage of resettlement implementation with project construction activities to ensure resettlement is completed prior to initiation of construction activities. (OP 4.12, Para 9; Annex, Section 19) • Distinction between categories of affected people based on the nature of their claims to the land.(OP 4.12, Paras 14, 15)

12	General	How does one distinguish minimum requirements” from good practice recommendations?	Meyer	The OP/BP 4.12 sets forth binding minimum requirements unless otherwise stated. Thus, for example, the provisions of Paras. 31-33 are not mandatory, since they simply provide the types of assistance the Bank may, at the borrower’s request, provide to further the policy’s objectives.
13	General	Should the Bank develop good practice guidelines for voluntary resettlement?	Meyer	The Bank has several good practice examples of voluntary resettlement programs. The matter is under consideration by management.
14	General	Is there sufficient flexibility in interpreting some provisions of the OP/BP, such as those relating to treatment of illegal occupants?	Meyer	The OP/BP 4.12 provides displaced persons who have no claims to affected land but have occupied the land prior to the cut-off dates should be assisted to restore their standards of living. There is considerable flexibility related to the form of assistance that can be provided.
15	General	What are the mechanisms to measure the long-term impacts of resettlement programs?	Abraham	OED evaluates the long term effects of resettlement in Bank projects from time to time through thematic evaluations.
16	General	Are the requirements regarding timing, approach and methodology for conducting consultations with affected people sufficiently flexible?	Ruiz	There is a great deal of flexibility in the timing, approach and methodology for conducting consultations with affected people. The basic requirement is that the various aspects of resettlement plan, such as resettlement sites and other resettlement measures be decided in consultation with the affected people and the resettlement plan be vetted by the affected people during project appraisal.
17	General	Has the draft OP/BP 4.12 expanded OD 4.30 by introducing such new features coverage of complementary activities, requirements for parks and protected areas, delegation of authority to approve resettlement plans, and establishment of the Resettlement Committee?	Jonck	<p>The draft OP/BP 4.12 retains the basic objectives and principles of the existing policy. It clarifies those aspects of the OD that are mandatory and provides an outline of the resettlement instruments. It also takes into account key decisions made by senior management on resettlement policy, recommendations of OED, as well as important lessons from the experience of implementation.</p> <p>The provisions relating to coverage of complementary activities reflect the long-standing approach taken by the Bank with regard to such activities. The treatment of parks and protected areas is a reflection of lessons learned in projects involving these areas. The delegation is proposed only in case of projects with subprojects where the number of resettlement plans may run into hundreds, and is contingent upon Bank being satisfied with the capacity of agencies to whom this authority is delegated</p>
18	General	Will the experience of	Al-Saad	The experience of implementing the revised OP/BP 4.12 is intended to be

		implementation be reviewed in the near future?		reviewed after two years of implementation.
19		How should the long term impacts of a resettlement programs be evaluated?	Al-Saad	See Response to Comment 15 above.
20	OP 4.12 Para 2	Would meaningful consultations and participation in the planning process be relevant when a single person is being displaced?	Ruiz	The consultation and participation process will be suited to the particular context in which it takes place and the scale of impacts. The sourcebook will provide additional guidance on this issue.
21	BP 4.12 Fn 1, OP 4.12 Para 2(a)	Should the provision that all viable alternative project designs should be explored be narrowed?	Singh	Given the varied nature of Bank-financed projects, it would not be possible to limit this general requirement. However, it should be noted that the requirement is not to explore all alternatives, but only those that are viable.
22	OP 4.12 Para 2(b)	Should projects always be required to provide an opportunity for the displaced persons to share in the benefits of the underlying investment project?	Singh	It is not always feasible for displaced persons to share directly in the benefits of the underlying investment, due to the nature of the investment. In these situations, the resettlement program, which is a part of the project, can be designed to provide significant benefits to the affected people.
23	OP 4.12 Para 2(c)	Why is it necessary to measure achievement of the income restoration objective of the policy against both “pre-displacement income levels” and levels “prevailing prior to the beginning of the project.”?	Singh	To protect affected people from potential declines in incomes and standards of living during the project preparation phase, the higher of the income levels prevailing prior to the beginning of the project or prior to their actual displacement is taken into account while establishing the income baseline. In cases where the incomes and standards of living have increased after the initiation of the project, the increased incomes and standards of living should constitute the baseline against which results would be measured.
24	OP 4.12 Para 3, fn 4	Are indirect impacts covered by the OP/BP?	Singh	Indirect impacts are not covered in the OP/BP. Only direct impacts are covered. As a matter of good practice, social assessments may be conducted to identify and address indirect impacts.
25	OP 4.12 Para 3, Fn 5	Does the policy apply to SALs and SECALs?	Singh	The OP/BP 4.12 does not apply to SALs or SECALs. The definition of “project” in OP 4.12, footnote 5, excludes adjustment operations, such as SALs or SECALs.
26	Para 3	How are “communities left behind” treated in resettlement programs?	Al-Saad	Even though they may not be directly affected, as a matter of good practice, assistance may be offered to relocate along with the displaced community if the communities left behind are not viable and are heavily dependent on relocating community. This would depend upon many factors, including

				consultations with the communities left behind, other opportunities in the affected areas, activities included in the project to create opportunities in the affected area etc.
27	Para 3	Does OP 4.12 dilute the existing policy by covering only direct impacts?	Piercy	<p>The draft OP/BP merely clarifies a long-standing interpretation of Management under the existing OD4.30, that the Bank's policy on involuntary resettlement covers only direct impacts resulting from Bank-assisted projects and caused by land takings or restrictions of access to protected areas. The Bank's policy on Involuntary Resettlement has never covered all adverse socio-economic impacts of Bank projects – only those directly caused by land taking and restriction of access to legally designated parks and protected areas.</p> <p>The policy has not been applied to indirect impacts, though they may sometimes be quite significant. For example, labor redundancies from an enterprise that is closed down for economic or environmental reasons are not covered by the policy since there is no land taking.</p> <p>It should be noted that OD 4.30 could be read restrictively to cover only impacts caused by actual physical relocation. However, in 1996 Management clarified that direct impacts on livelihoods (“economic displacement”) caused by physical measures, even in the absence of actual physical relocation, are also covered.</p>
28	Para 3 Fn 7	How is voluntary resettlement different from involuntary resettlement?	Piercy	<p>Resettlement is voluntary only when the affected people have the option to refuse resettlement, and they nevertheless resettle based on informed consent.</p> <p>Thus, if the affected people do not have the option to refuse resettlement, their willingness to accept the provisions of the resettlement plan does not make the resettlement voluntary.</p>
29	Para 3, fn 4	How are direct and indirect impacts defined? Would impacts on livelihoods of fishermen living away from a river but fishing in a river affected by construction of a dam be classified as direct or	Piercy	<p>In the example mentioned, if the affected people are relocated away from the river because the land they occupy will be submerged once the reservoir is filled, the impact would be direct since the relocation is directly caused by the taking of land. However, if they continue living close to the river, possible impacts related to reduction of fishing catches would be indirect and would not be covered under the OP. However, such impacts should be addressed through the Environmental Assessment under OP4.01. The</p>

		indirect impacts		Environmental Mitigation Plan (EMP) for the project should include measures to prevent depletion of fisheries in the river. It would not be possible, ex-ante, to calculate the amount of reduction, if any, in fish catches that could result from the construction of the dam. In addition, prudent conservation measures could help maintain or even increase fishing catches as a result of creation of a reservoir. For example, in the Saguling and Cirata projects in Indonesia, the income from fisheries increased manifold after the project was implemented due to concerted efforts to develop fisheries in the reservoir.
30	OP 4.12 Para 3 Fn 7	How is resettlement characterized as “voluntary”? How is “free choice” determined?	Meyer	See response to comment 28 above. Free choice is determined by a number of methods. Involvement of community organizations, independent academic institutions and NGOs in the process of verification of “free choice” as well as third party verification by “out of country” consultants are some of the ways in which free choice may be determined. The resettlement sourcebook will discuss this issue in further detail.
31	OP 4.12 Para 3 Fn 7	How can the Bank determine if resettlement is voluntary?	Hyden	Resettlement is voluntary only when it is not involuntary, i.e., when the resettler has the choice not to move, but nevertheless moves based on informed consent (see footnote 7 of the OP). When the voluntary nature of resettlement cannot be confirmed, resettlement would be treated as involuntary.
32	Para 3(a)(iii)	Why does the OP specify that the loss of income source/means of livelihood may occur “whether or not the affected persons must move to another location”? Would one not assume that once land is taken, the affected person does not have the right to continue living in the same place?	Singh	The OP/BP recognizes that there could be situations where people are adversely affected by land acquisition even though their residential houses may not be affected (e.g., acquisition of farm land). In such situations, they would not be required to move to another location, but would still be covered by the policy.
33	OP 4.12 Paras 3 & 4	Should the OP define <i>direct impact</i> and <i>complementary activities</i> ?	Jonck	Because of the wide variety of projects involving resettlement, Management considers that it would not be feasible to provide a detailed definition of direct impacts. However, the sourcebook is expected to provide examples of direct impacts in particular cases. The provision on complementary

				activities is being revised to provide greater clarity..
34	Para 4	Could the reference “complementary activities” be interpreted so as to cover a vast range of activities with no clear link to the Bank-assisted project?	Singh	Paragraph 4 of the OP 4.12 has been revised to clarify the required linkage of complementary activities to the project.
35	OP 4.12 Para 4	Could the proposed application of the resettlement policy to “complementary” activities not financed by the Bank, significantly expand the coverage of the resettlement policy?	Zhu	The intention of the OP/BP is not to unduly expand the policy’s coverage, but rather, to cover only the activities that are (a) directly and significantly linked to the project; (b) are necessary to achieve the project’s objectives and (c) are carried out in anticipation of the Bank-assisted project. The draft OP is being revised to clarify this point.
36	OP 4.12 Para 4	Could the term complementary activities be interpreted too broadly?.	Ruiz	Paragraph 4 is being modified accordingly.
37	OP 4.12 Para 4	Is the concept of complementary activities clear?	Ruiz	The draft OP is being revised to clarify this concept.
38	Para 5	What are the membership and terms of reference of the Resettlement Committee? How does the committee relate to the Compliance Unit?	US	<p>The Resettlement Committee will be chaired by the Vice-President, ESSD and will include the following members: (a) Director, Social Development, ESSD; (b) a representative from LEG; and (c) two representatives from operations, including one from the sector of the project under consideration.</p> <p>The Quality Assurance and Compliance Unit would serve as the secretariat to this committee and provide the necessary background required by the committee to conduct its activities.</p> <p>Upon request of the task team, the Resettlement Committee would review and provide guidance on the manner in which the team proposes to address resettlement issues in a project or assist in providing clarifications on the application and scope of the policy. If issues of the interpretation of the OP arise, the Committee would submit its recommendation to the MD concerned, who, in consultation with the VP and General Counsel, would decide on the proposed interpretation. The MD would be accountable to the Board for issuing an interpretation consistent with the Articles of Agreement and Board approved policy.</p>

39	OP 4.12 Para 5	Should the Resettlement Committee be accessible to staff other than the TT, to affected communities and to EDs assess the project prior to approval?.	Schaffer	The Resettlement Committee is intended to serve as an internal mechanism to facilitate decision making by management on resettlement issues raised by particular projects for which TTs are responsible. It is not intended to serve as an independent reviewing body. The Inspection Panel was created by the Board in order to consider claims that may be raised by affected communities that the Bank failed to comply with its policies in preparing the project. The Panel is also required to respond to requests by the Board for investigation of such issues.
40	OP 4.12 Para 5	What is the anticipated role of the Resettlement Committee vis-a-vis the Quality Assurance and Compliance Unit (QACU).	Jonck	See response to Comment 38 above.
41	OP 4.12 Para 5	What are the terms of reference of the Resettlement Committee? Will the guidance of the Resettlement Committee become a part of the Resettlement Sourcebook?	Meyer	See response to Comment 38 above. The sourcebook will be regularly updated to reflect, among other things, the guidance of the Resettlement Committee.
42	Para 6	Should the OP clarify that some of the assistance measures will not be relevant in all cases?	Singh	Para 6 of the OP is being revised accordingly.
43	Para 6 Fn 11	Why should the concept of “replacement cost” apply to land? Is it a viable concept in cases where replacement of land is not physically feasible? Should replacement cost be required if domestic law does not provide for it?	Singh	The alternative to replacement cost would be market cost. However, experience shows that replacement cost is a more appropriate concept than market cost. Replacement cost allows for procurement and development of replacement land in a feasible location. In addition, the methods used to calculate market cost often result in payment of compensation which is much lower than the amount required to acquire replacement land. The OP, therefore, relies on the concept of replacement cost.
44	OP 4.12 Para 6 and 12	Why are those affected by restrictions of access to parks and protected areas not covered by the provisions of paragraphs 6 and 12?	US	Paragraph 6 describes the type of assistance for people affected by land taking. Since the nature and scope of impacts on people affected by restrictions of access to parks and protected areas are finalized only during project implementation, it is not possible to develop a generic menu of types of assistance that should be provided to people affected by such restrictions of access.

45	Para 6(c)	Could depreciation of structures and assets be taken into account if there exists an active local market for such assets?.	Hyden	While theoretically, depreciation could be taken into account in situations where active housing markets exist, Bank experience shows that most Bank resettlement takes place in areas that lack such markets and they are imperfect even when they exist. It is not usually possible to purchase comparable houses in the open market at the depreciated cost of structures. Since this provision is likely to be misunderstood and misused, it is not proposed to be included in the OP.
46	Para 7	Will people whose access to parks and protected areas is restricted under Bank-assisted projects be consulted only during project implementation?	Stek	In Bank-supported projects involving involuntary restriction of access to parks and protected areas, the scope of the restrictions, as well as the corresponding mitigation measures are determined only after following a participatory process undertaken during project implementation. The objective of participation by the affected people in these projects is not merely to improve the design of mitigation measures but also to obtain their views on the nature of restrictions, and therefore the design of the project. The OP/BP requires the borrower to prepare a “process framework” which describes the proposed participatory process for designing and implementing restrictions as well as corresponding mitigation measures. In addition, before any restrictions on access are imposed under the project, the borrower must prepare an action plan, acceptable to the Bank, describing the specific measures to assist those whose access will be restricted. Access of the affected people to relevant information is also fully preserved in the process framework.
47	OP 4.12 Para 7	Why are indigenous peoples living in parks and protected areas not proposed to be consulted appraisal and design stage?	Schaffer	See Response to Comment 46 above.
48	Para 7(b)	On what basis would the Bank accept the lack of legal right to use resources as a basis for deciding eligibility of displaced persons?	Hyden	The regional ESSD teams would review and approve process frameworks, including the nature of the participatory process undertaken, as well as the criteria for determining who is an eligible displaced person. If there is any doubt about the adequacy of the criteria used, these would normally be raised with the Resettlement Committee for advice.
49	OP 4.12	Is the requirement of particular	Singh	This requirement reflects the Bank’s experience that special measures may

	Para 8	attention to vulnerable groups necessary?		be necessary for vulnerable groups in order to achieve the policy's objectives. This is determined on a project-specific basis, and any special measures are included in the resettlement instrument.
50	Para 8	Should the OP address the special issues that arise when Indigenous Peoples are displaced?	Schaffer	Footnote 15 has been revised to address these issues.
51	OP 4.12 Para 10	How is the draft OP's approach to land based resettlement options different from the policy under the existing OD4.30?. Would the proposed changes limit the options of displaced person to cash in situations where sustainability of protected areas is adversely affected or when sufficient land is not available?	Jonck	<p>The draft OP/BP retains the OD's preference for land-based resettlement strategies for those displaced from agricultural settings. As under the OD, the OP/BP allows for non-land based strategies if suitable land is unavailable. However, under the OD, the search for land is generally limited to available public land. The OP/BP would enhance the OD's provisions by specifying that the resettlement strategy may include resettlement on land purchased in the open market in addition to public lands. Thus, the revised policy introduces provisions that would substantially increase the likelihood of identifying replacement land for those displaced from agricultural settings.</p> <p>In situations where the sustainability of a park or protected area may be adversely affected by provision of land, land may be provided outside the park or protected area.</p> <p>In cases where sufficient land is not available, the affected people would be paid cash compensation even under the existing OD. The draft OP actually increases the likelihood of identifying replacement land by including the possibility of purchasing land in the open market.</p>
52	OP 4.12, Para 10	Does the OP/BP dilute the provisions of OD4.30 relating to land-for-land resettlement strategies?	US	See response to Comment 51 above.
53	OP 4.12 Para 10	Why does the Bank require demonstration of the lack of adequate land to the satisfaction of the Bank, rather than accepting a certification in this regard from the implementing agencies?	Singh	The draft OP clarifies that open market mechanisms should be explored to find replacement land. However, since land can always be purchased in the open market provided the price offered is acceptable to the owners, the requirement is qualified by the provision that land should be found at "reasonable price". Management considers it an important aspect of its due diligence to obtain evidence that all available avenues for procuring replacement land have been explored.

54	Para 10	Does the OP/BP dilute the provisions of OD4.30 relating to land-for-land resettlement strategies? How will the Bank be satisfied that sufficient land is not available at a reasonable price? What protections are there for displaced persons who have no legal claim to the land they occupy?	Stek	See response to Comment 51 above. While the Bank would normally rely on the evidence provided by the borrower, if issues arose, they would normally be raised with the Resettlement Committee for advice. The BP is being revised to specify Bank procedures to verify “lack of availability of sufficient land”. The Resettlement Sourcebook would give good practice examples of how borrowers could demonstrate, and the Bank could verify, lack of adequate land.
55	Para. 10	What process would the Bank follow to verify the lack of availability of sufficient land at a reasonable price?	Hyden	See response to Comment 54 above.
56	OP 4.12 Para 10	Does the wider choice of economic rehabilitation measures constitute a weakening of the preference for land based strategies in the existing OD? How will the fact that sufficient land is not available at a reasonable price be determined?	Schaffer	See response to Comment 51 and 54 above. In confirming that land is not available at a reasonable price, the task team as well as the regional ESSD teams will review borrower’s assessment of this matter, as part of the process to review and approve resettlement instruments. In case of any doubt or disagreement, the issue could be referred to the Resettlement Committee for resolution.
57	OP 4.12 Para 11	Is the draft OP changing policy when it indicates that there may be situations in which cash compensation alone may be sufficient?.	Schaffer	Cash compensation is normally inadequate in situations that involve physical displacement and substantial impact on income generating assets. However, Bank experience shows that there are situations (elaborated in OP 4.12, Para 11) where cash compensation alone may suffice.
58	OP 4.12 Para 12(b)	Is it appropriate to require in all cases that alternative or similar resources be provided for displaced groups and host communities to compensate for the loss of access to community resources?	Singh	In order to meet the policy’s objectives, Management believes that all efforts should be made to provide similar resources to these groups, failing which other alternatives need to be provided in consultation with affected people.
59	OP 4.12 Para 12(c)	Why does the policy indicate a preference for maintaining	Singh	The policy is geared to honoring the preferences of resettlers in this regard. While it recognizes that better integration among various communities

		existing community structures rather than allowing for the possibility of better integration among various communities?		among communities may be a desirable feature of successful resettlement, such integration should be done based on the preferences of the affected people.
60	OP 4.12 Para 13	Does the policy accept income criteria to determine the need for, and extent of, assistance beyond compensation?	Singh	The “development assistance”(OP 4.12, Para 6(g)) provided over and above the compensation payable for loss of affected assets is usually subject to income and vulnerability criteria.
61	Para 14	How is the provision relating to possible payment of compensation to those without legal title consistent with the OP’s approach of setting forth minimum requirements only?	Hyden	The OP/BP describes two categories of persons without legal title: those with a claim, short of legal title, that is or will be recognized by law, and those with no such claim. Only the former can be provided with compensation. OP, Para. 14 is being revised to clarify this issue.
62	Para 14	How should the policy address the disproportionate impact of resettlement on indigenous peoples, who have strong, legitimate links to land, but most likely lack documented claims to this land?	US	Many indigenous groups would be covered by the provisions of Para 14 (b) in that their claims to land may be recognizable under local laws, even if such rights may not have been documented. Such groups would receive compensation and other development assistance in the same manner as those who have formal legal rights to land taken. However, even in cases where they do not have any claims under local law, they would receive resettlement assistance which does not preclude any form of assistance (including land, cash allowances, credit, training, etc.). The objective of the policy is the same for all displaced persons (as defined in the OP), whether or not they have a legal claim to the land/assets: that they should be assisted in their efforts to improve their livelihoods and standards of living, or at least to restore them.
63	OP 4.12 Paras 14 and 15	Does the OP/BP adequately ensure that the resettlement plan distinguishes between the right to use the land and ownership rights?	Abraham	OP/BP para. 13 requires the borrower to conduct a census survey, which would include an assessment of the different types of losses, as a means to establish criteria for eligibility for compensation and other resettlement assistance. The survey would normally distinguish between those with rights to use land and those with ownership rights.
64	OP 4.12 Paras 14 and 15	Should tenants on affected lands receive assistance in securing other productive lands in addition to compensation for any developments on the land?	Abraham	Tenants are typically provided transition assistance to help identify other productive lands, and are given full compensation for developments made by them on the land.

		Should those who occupy lands in violation of local laws be divided into two categories: (a) destitute squatters, who have no other means, and who should be assisted to relocate to areas where their productive abilities could be restored, and (b) those who take advantage of their position to secure compensation or other benefits in Bank-financed projects, and should therefore not be assisted?		Squatters are generally divided into several categories, including the two categories mentioned. Those who encroach the project area in order to secure compensation or other benefits from a Bank-assisted project are not provided compensation or any other assistance.
65	OP 4.12 Para 15	What does <i>resettlement assistance</i> entail?	Jonck	Resettlement assistance could entail any form of assistance that would help achieve the objectives of the policy in a given situation. It could take the form of land, jobs, cash allowances, credit, training or any combination of these.
66	Para 15	Why should displaced persons who do not have any claim to the land be provided resettlement assistance instead of compensation?	Hyden	OP 4.12, Para. 15 stresses that even displaced persons who have no claim to the land need to be assisted (provided “resettlement assistance”) in a manner which helps them improve, or at least restore their standards of living, which is a key objective of the policy. It introduces flexibility in determining the range of measures that can be provided to help restore their standards of living. Past experience has shown that borrower agencies are willing to assist such people with measures to help restore their standard of living but find it difficult to pay “compensation” since compensation can only be paid to those who have established rights under the legal system. This paragraph is being revised to clarify this issue. Para 15 of the OP also clarifies that those who encroach the project area after the established “cut-off” date are not provided compensation or any other form of resettlement assistance.

67	Para 15	Is the proposed “resettlement assistance” substantially different from “compensation”? Should the provisions relating to resettlement assistance be removed from the OP/BP and included in good practice guidance instead?	Zhu	<p>The objective of both provision of “resettlement assistance” to those without legal claims and payment of “compensation” to those with legal claims is the same: “to improve or at least to restore the incomes and standards of living of all displaced people”. The distinction is designed to eliminate difficulties experienced under the existing OD, which provided that absence of legal title would not be a bar to compensation. Under OD 4.30, borrower agencies are willing to assist people without legal claims restore their standard of living but find it difficult to pay “compensation” since compensation can only be paid to those who have established rights under the legal system. The OP further introduces flexibility in determining the range of measures that can be provided to help restore their standards of living.</p> <p>Since the requirement of assisting even those without title is included in the existing OD, Management does not believe it would be within the scope of this conversion, to eliminate the requirement and replace it with good practice guidance..</p>
68	Para 15	OD4.30 requires compensation even to displaced persons who have no legal rights under local law. Would the draft OP/BP weaken this requirement by distinguishing between displaced persons who are entitled to compensation, and those who are only entitled to resettlement assistance?	Piercy	<p>The intent of the draft OP/BP is not to weaken the OD’s requirement. See response to Comment 66 above.</p>
69	OP 4.12 Para 15	Why does the policy treat those with claims to land differently from those without?.	Schaffer	<p>See response to Comment 66 above.</p>
70	OP 4.12 Para 15	Why is resettlement assistance provided to those without legal rights.	Ruiz	<p>See response to Comment 67 above.</p>
71	OP 4.12 Para 15	The provision granting rights to those who may be “occupying lands in violation of local laws” may promote widespread invasion of public lands?	Ruiz	<p>Paragraph 15 of the OP is being modified accordingly..</p>

72	OP 4.12 Para 17	What is the Bank's role in situations where the borrower's capacity for resettlement implementation is weak?	Piercy	<p>Borrower capacity for undertaking resettlement is a key determinant of Bank involvement in a project. Each project specific resettlement plan prepared by a borrower describes the institutional framework, including the agencies responsible for implementing the resettlement program, and includes any measures necessary to enhance their institutional capacity throughout resettlement implementation. (OP 4.12, Annex, Section 8)The Bank reviews borrower's resettlement implementation capacity during appraisal to ensure its adequacy.(BP 4.12, Para 10(a)) The Bank may, at the borrower's request, also finance technical assistance to strengthen the capacity of the resettlement agencies.(OP 4.12, Para 31(b))</p> <p>The PAD includes a discussion of the capacity and commitment of the borrower to implement resettlement. (BP 4.12, Para 11)</p>
73	OP 4.12 Fn 21	Should the Bank not incur the costs of hiring an independent advisory panel for risky projects or complex resettlement?	Singh	For projects with complex resettlement issues, independent, internationally recognized advisory panels have been found to be very effective in guiding the preparation of the resettlement program. To ensure borrower ownership of the process, it is important that such panels be appointed by the borrower. If the borrower wishes, the Bank may finance the cost of engaging such panels out of the proceeds of the Bank loan.
74	OP 4.12 Para 23	Should the assessment of whether resettlement objectives have been accomplished be made by the Bank rather than the borrower?	Schaffer	The Bank completes the ICR which includes an assessment of the extent to which the objectives of the resettlement program have been accomplished. The borrower's assessment regarding the achievement of the objectives of the resettlement program feeds into the Bank's ICR process.
75	OP 4.12 Para 24	Are abbreviated plans required for all projects where fewer than 200 people are displaced? What is the difference between the full plan and the abbreviated plan and why?	Jonck	<p>The abbreviated plan is merely an option to a full plan, that may be agreed upon if the requisite conditions are met (mainly that numbers of affected persons are small or the impacts are minor). Thus, there may be situations where the borrower and the Bank may agree that full resettlement plans will be prepared even though fewer than 200 persons are displaced.</p> <p>The abbreviated plan is not expected to contain the same level of details as the full resettlement plan, since the number of affected people is small or the impact is minor.</p>
76	OP 4.12 Para 31	Increased requirements related to project preparation will require increased investments in training of borrower country	Abraham	Strengthened local capacity to address resettlement issues is an important determinant of successful resettlement implementation.

		personnel to address resettlement issues, and strengthening of resettlement institutions.		
77	Annex Para 6(a)(iii)	Is it feasible to require detailed inventory of affected assets during project preparation?	Ruiz	Section 6(a)(iii) of the Annex is being modified to reflect what can feasibly be required during preparation.
78	Annex Paras 6(b), 7, 11	To what extent does the OP/BP rely on local laws and cultures?	Zhu	<p>For a general statement on this issue, see the Questions and Answers circulated to CODE on January 26, 2001 (question #3).</p> <p>OP, Annex, describes the elements of the resettlement plan, which include, in OP 4.12, Section 6, socioeconomic studies, including on the land tenure and transfer systems, patterns of social interaction in the affected communities, and social and cultural characteristics of the affected communities, and in Section 7, an analysis of the legal framework, applicable to resettlement, to identify any gaps between local laws and the Bank's policy, and devise mechanisms to bridge the gaps.</p> <p>Also, Section 11 suggests that the resettlement packages designed should be compatible with the cultural preferences of the displaced persons.</p>
79	Annex Para 6(b)	Does the OP/BP ensure that any attempt at addressing resettlement impacts is preceded by a clear understanding of the cultural basis of land ownership and land use?	Abraham	The draft OP/BP addresses this concern in the Annex, which describes the elements of the resettlement plan. Also see response to Comment 78 above.
80	OP4.12 Annex	Is the detailed outline of the resettlement plan appropriate for small resettlement programs where only 200 persons are displaced?	Singh	Paragraph 2 of the Annex acknowledges that not all elements of the outline of the resettlement plan will be relevant for all projects, and notes that the scope and level of detail of the resettlement plan vary with the magnitude and complexity of resettlement.
81	Annex Para 13	Should the psychological aspects of displacement be addressed in the resettlement plan?	Abraham	The outline of the resettlement plan (OP 4.12, Annex, Section 13, footnote 2) is being modified to include consideration of the psychological aspects of displacement.
82	Annex	Should resettlement planning	Al-Saad	Annex to OP 4.12, Para 20, notes that cost estimates for resettlement

	Para 20	take into account future growth of population?		activities should take population growth into account.
83	Annex Fn 2	Should the psychological aspects of resettlement be taken into account?	Al-Saad	See response to Comment 81, above.
84	BP4.12 Paras 3, 7	Should the borrower have a say in determining the type of resettlement instrument that needs to be prepared? Should it participate in the deliberations of the resettlement committee?	Singh	<p>The type and design of the project is determined by the borrower in consultation with the Bank. The type of resettlement instrument required is a function of the type of project agreed upon. Investment projects whose resettlement impacts are known by project appraisal require preparation of a resettlement plan as a condition of appraisal. Sector Investment Loans (SILs), Financial Intermediary Loans (FILs) and other projects with multiple sub-projects (where resettlement impacts cannot be known by appraisal) require the preparation of a policy framework by project appraisal. Projects involving restriction of access to parks and protected areas require the development of a process framework prior to project appraisal.</p> <p>The resettlement committee is an internal mechanism designed to facilitate the Bank's deliberations, by providing guidance to staff on the application of the resettlement policy to a particular situation. The Committee would, of course, review relevant information provided by the borrower to the task team.</p>
85	BP 4.12 Para 16	Does the policy require the borrower to provide further compensation if, notwithstanding the implementation of the agreed resettlement plan, the objectives of the policy are not met?	Zhu	Under the draft OP/BP, the borrower is responsible for implementing the resettlement instrument as provided in the legal agreement with the Bank. When it prepares its project completion report, the borrower is also required to assess whether the objectives of the resettlement instrument have been met. If they have not been met, the report may propose a future course of action, which could include continued supervision by the Bank. While the Bank may decide to continue supervising the project, the borrower would only be required to undertake any actions it has agreed to under its legal agreement with the Bank. <u>The OP/BP is being revised to clarify this point.</u>
86	Sourcebook	Who provides authoritative interpretations of the policy?	Stek	<p>The Managing Director concerned, in consultation with the General Counsel, is responsible for interpretations of OP/BPs. The sourcebook is not intended to provide policy interpretations, but rather, will provide good practice guidance on:</p> <p>(i) ways to implement the OP in specific circumstances; (ii) how to implement different aspects of resettlement such as baseline</p>

				surveys, consultations, design of income restoration measures, grievance redress, monitoring and evaluation etc; (iii) how to implement resettlement in different sectors, such as Urban Development and Natural Resource Management; and (iv) ways to enhance the development impact of resettlement.
87	Sourcebook	If the Resettlement Sourcebook is intended to clarify many aspects of the policy should it be attached to the policy note that will be sent to the Board for approval?	Piercy	<p>The Resettlement Sourcebook is not intended to interpret or “clarify” policy but rather to provide good practice guidance on (i) how to implement different aspects of resettlement (e.g., conducting baselines surveys, consultations, designing income restoration measures, grievance procedures, monitoring and evaluation, etc); (ii) how to implement resettlement in different sectors, such as Urban Development and Natural Resource Management; and (iii) how to enhance the development impact of resettlement.</p> <p>The preparation of the sourcebook will depend on the final text of the OP, as well as experience learned, and will therefore be a living document that will initially only be prepared following the Board’s approval of the policy, and will be regularly updated thereafter.</p>
88	Sourcebook	Will the draft sourcebook be available as background material before the revised version of the OP/BP?	Schaffer	See response to Comment 87 above.
89	Sourcebook	Will the resettlement sourcebook interpret the policy or only provide good practice advice on better implementation?	Meyer	See response to Comment 86above.
90	Sourcebook	Will the sourcebook include guidelines or mandatory policy?	Jonck	See response to Comment 86 above.
91	WCD	Should the Bank respond to the WCD report in detail before the OP/BP 4.12 is finalized?	Hyden	Given Management’s decision to proceed with a conversion of the existing OD that retains the OD’s essential policy and procedural requirements, a detailed review of the recommendations of the WCD report before finalizing the OP/BP would be beyond the mandate of the current exercise. Moreover, the WCD report is relevant to only a small portion of the projects covered by the OP/BP. Dams constitute only about 5% of the Bank-assisted projects that require resettlement, whereas the OP/BP covers resettlement in all sectors.

				<p>The water sector strategy, expected to be completed in July, 2001, will review the recommendations of the WCD report and make recommendations on, inter-alia, whether and how some of the recommendations should be incorporated into the Bank's operational policies or good practice guidance.</p> <p>As conveyed to WCD Commissioners in their meeting with the World Bank on April 5, 2000, the resettlement sourcebook will include a chapter on reservoir resettlement which will also discuss WCD recommendations on resettlement issues.</p>
92	WCD	Should the WCD report's recommendations be selectively incorporated into the resettlement policy at this time?	Piercy	See response to Comment 91 above.
93	WCD	Could management indicate a process for considering the recommendations of the WCD report as they relate to resettlement?	Stek	The WCD report was initially discussed at CODE on February 14 th . The WCD Report will be reviewed as part of the process for preparing Water Sector Strategy. The strategy, expected to be completed in the fall of 2001, will propose whether and how some of the recommendations should be incorporated into the Bank's operational policies.