CORAL HIGHWAY
DOMINICAN REPUBLIC

PROPOSAL OF ACTIONS FOR
IN VOLUNTARY RESETTLEMENT OF
FAMILIES IN VULNERABLE CIRCUMSTANCES

JULY 2010
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CORAL HIGHWAY

Proposal of Actions for Involuntary Resettlement of Families and Businesses in Vulnerable Circumstances

The experience of multilateral Banks with resettlement indicates that payment in cash alone is not an adequate strategy due to the fact that: a) said payment is frequently insufficient to replace the assets lost with other assets of equal value, and b) the displaced persons frequently need opportunities or knowledge to use said payments to replace assets and lost opportunities. Further, the pressure to satisfy immediate needs for food, temporary housing, health care or debt amortization results in using the money received by way of indemnity before they are invested in housing or productive assets. This is particularly the case of low-income groups whose situation may lead to a permanent impoverishment. Therefore, assistance should be offered to the displaced to find housing, land or alternative employment, and this has particular importance for persons depending on the land to sustain themselves (OP-710, IDB, 1998).
INTRODUCTION

This report describes the actions necessary for resettling the families and businesses affected by construction of the Coral Highway, linking Santo Domingo and the Punta Cana region, in the Dominican Republic.

The construction of the expressway is the responsibility of Constructora Norberto Odebrecht (CNO) – a company that is part of the consortium (joint-venture) for construction of the Coral Highway that contracted this study. The study and the submitted proposals aim to respond to the situation verified at one of the locations through which the new highway will be built and to serve as a guideline for similar situations that may occur.

CNO has a Guarantee Contract with the Interamerican Development Bank (IDB) and, therefore, is a signatory of the environmental, social, advisory and public disclosure operating policies adopted by this institution, which were the basis for this report.

The following actions were carried out for preparation of this Report: (i) a technical visit to the project area from June 29 to July 02, 2010; (ii) interviews with affected residents and with Government representatives of the institutions.

- Ministry of Public Works and Communications – “MOPC”
- Project coordinator and associated team including environmental expert, social assistant, construction monitoring and supervision;
- Evaluations Committee.

In the situation studied, after identifying the possibility of removing families in apparent situation of vulnerability in the field, concentrated near El Limón¹, (Annex 1), CNO prepared a specific study to offer measures to improve the quality of life for this population, associated with the construction of the expressway, in consonance with the OP-710.

The MOPC is the project promoter through the Directorate-General for Planning and Programming of Investments and the Environmental Management and Risk Department, whereas the Moya–CNO Consortium is responsible for the construction, operation and

¹ Twenty-nine affected families were identified in El Limón, not previously accounted for in the environmental study of 2009 – see Environmental and Social Summary Report: Coral Highway Project, Dominican Republic, pg. 10, Exponent, October, 2009.
maintenance thereof under a Public-Private Participation financing scheme. The land negotiation and expropriation process for project implementation is carried out by the MOPC.

The highway stretch under construction goes from La Romana as far as Punta Cana, 70 km long, and affects large rural properties along most of its route, such as those for sugarcane production. Nevertheless, at a few points of the highway some families residing in the right of way and small landowners will be affected, and these situations require appropriate treatment so as not to generate impoverishment and to realize the potential for regional development benefits of the construction.

The resettlement proposal includes a summary that indicates the number of persons affected, the resettlement measures and activities they propose for themselves, the basic definitions and pending problems. The legal and institutional frame of reference in the Dominican Republic, in addition to the operational policy of the financial agency – OP-710 of the IDB, are the construction guidelines of this proposal. The guidelines of the OP-710 that apply in this case are described below:

- Public Utility Decree for the purpose of Expropriation;
- Ensure management shared between Government and Community;
- Ensure improvement or maintenance of the housing conditions;
- The costs of resettlement solutions shall not be passed on to the families;
- Guarantee of indemnity payment of the real property, including all improvements made;
- Social Equity;
- Avoid impoverishment of the affected population.
1. OBJECTIVES

The resettlement actions proposed for those affected by the Coral Highway have the purpose of (i) re-establishing the housing and land-access conditions for all those affected to conditions at least equal to the ones existing before the construction; (ii) provide an opportunity for local development to those affected who are in vulnerable situations by supplying adequate benefits for the improving the quality of life for these families.

2. ANTECEDENTS

The construction obtained the corresponding environmental licensing in 2008, with License DEA 0121-07 of the Environment and Natural Resources Ministry. This document and the national Law do not deal specifically with involuntary resettlement processes in the country. The existing law protects property rights and expropriation for public-utility undertakings.

The Government of the Dominican Republic follows a procedure for assessing land and improvements that is being applied for lands in the Coral Highway right of way. These are procedures for regularized owners with evidenced documentation so as to allow for land expropriation procedures. Nevertheless, if occupants of properties located at the fringes of the land occupied by the new route are not able to present documents accrediting them as owners of these properties, there are exception procedures as described below (see item 5 i annex 5).

These procedures are carried out by the Ministry of Public Works and Communications (MOPC), with the participation of the Evaluations Committee, as follows:

- 1. Project supervision, in coordination with the Executive Unit of the MOPC in charge of the Project, proceeds to travel over the proposed route of the highway to be built and locates the poles delimiting the expropriation area.

- 2. The Executive Unit informs the Department of the Evaluations Committee of the new Project and its route.

- 3. The coordination of the Evaluations Committee, via MOPC, requests that the Directorate-General of the National Register fix the land Price Index in order for it to take effect in an official manner, after receipt of the project route plans.

- 4. The Project Supervision, in the land area where the project shall be built, identifies the properties to be affected along the entire route in coordination with the designated military in charge, proceeding to:
  - Topographical survey of the expropriation area;
  - Verification and individual reports of plantations, improvements and/or buildings located within the area to be expropriated.
5. The military officer representing the Evaluations Committee of the MOPC goes down to the area where the highway will be built and undertakes a survey of the documents of the real-property owners, such as:

- Copy of the Identification and Electoral Cards of the owner and of the occupant if he/she is not the owner of the real property;
- A copy of the official documentation accrediting him/her as owner of this real property, such as: title of real property including its cadastral plan;
- For the occupants who are in these properties and have other forms of documentation (certificates of donation, private purchase contracts without official registration etc.), the Evaluations Committee carefully reviews each case juristically, seeking to resolve the matter of payments for the properties; thus seeking to facilitate continuation of the project execution, normally making payment for the improvements existing on such lands.

The documentation assembled for each property may vary and present pieces such as a Certification by the Dominican Agrarian Institute (IAD), a contract of donation to a peasants cooperative or a sworn affidavit of improvements. These documents are likewise used by the government in order to prove the occupation of the lands and improvements. An example of these documents may be seen in Annex 5, as well as a model of the documentation gathered for each occupant.

6. The Evaluations Committee organizes itself to visit the project, for the purpose of assessing the housing and other types of existing improvements.

7. The Evaluations Committee with this field data carries out taxation of the real-property to be expropriated, which consists of three main parts:

- **Terrain:** with the amount of m2 of land identified by the Supervision, the Price Index pre-established by the National Register Committee is applied;
- **Plantations:** with the count of the trees or bushes reported by the supervision, clearly indicating their state or production advancement and based on this, their prices are assigned according to the Ministry of Agriculture list for assessing these titles or trees;
- **Improvements and Buildings:** a survey is made of the constructed areas with a description of materials used and their physical status, preferably with supporting photographs, and a value is assigned in pesos taking into account its cost of replacement.

8. The Evaluations Committee issues a form for taxation for each property to be expropriated to be sent to the administrative area of the MOPC for the purpose of requesting the corresponding payment with the legal documentation that guarantees the property.

9. The administrative area of the MOPC proceeds to order the issuance of the corresponding checks.
10. Once the checks are made available, the Evaluations Committee in coordination with an auditor and a payer of the MOPC go to the field to deliver every owner his/her check for expropriation of the affected property. Said payments are made by a lawyer who ensures delivery of the Property Titles of the land purchased by this MOPC.

11. The military officer in charge of security for the project before the supervision informs those expropriated that they should within a reasonable time abandon the place for continuation of the work.

12. Upon maturity of the stipulated term-period, the supervision authorizes the contractor to continue the project using the expropriated areas.

13. The Property Titles are delivered to the lawyer of this Evaluations Committee to proceed to withdrawal of the area that was purchased by the Dominican State.

To make this procedure fulfill the IDB’s operating policy, it must pay attention to all occupants, whether they are owners, caretakers, or renters, so as to guarantee equal treatment to all those affected by the project. It is important to notice that the IDB policy establishes that “the resettlement negatively affects the poorer and more vulnerable groups, such as … small agriculturists in need of a title for their land. These groups deserve central attention by the resettlement programs due to the fact that the limitations of the laws and norms governing expropriation and indemnity often render it difficult for replacement of the assets and opportunities lost. On the other hand, their lack of formal education frequently places them at a disadvantage to deal with the authorities and, as a result thereof, their demands are ignored and their level of poverty increases. The main risk is the loss of access to the house or to the land.”

This question is treated in the chapter of Strategies and applicable solutions.

3. REFERENCE TABLE

According to the Government's and contractor's preliminary registry information, the families and businesses liable for resettlement are limited to a specific area of the right of way near El Limón, with a total of 29 affected — Annex 1. The following figures show the area of El Limón and the agglomeration of small properties referred to herein.
Image 3.1. | Image of the affected area in El Limón
Image 3.2. | Image of the affected area in El Limón
Designed primarily to meet the needs of the community of El Limón, the directives given in this report are also applicable to all those affected in a similar situation who are identified in the advance of the highway work. There is an area of work at kilometers 35 and 36 of the highway that does not yet have all topographical surveys executed and should eventually present analogous situations of small rural properties. In these cases, the strategy directives and solutions identified here should be applied.

To develop the proposed action strategy, it is necessary to complete the socioeconomic characterization already started in the action area, applying the questionnaire to all occupants and tenants, in addition to the owners already identified. This questionnaire is available in Annex 1. For the large properties there is no need to apply the questionnaire, but the Expropriation Summary table shall be completed, available in Annex 3.

Community Participation and Consultation – the families shall be consulted as to the project and the applicable removal solutions. This process is already under development by the Government, with the presence of the Evaluations Committee’s representative and shall be expanded, with the inclusion of the contractor’s representation through a social assistant to answer all doubts about the resettlement. Other agents acting in the process of community participation are the Dominican Agrarian Institute (IAD) and the Association Block of Peasants for the Community Development of Benerito (community neighboring El Limón, that incorporates its habitants and producers in the community work).

The IAD develops agricultural fostering works in State lands and also identifies the need for regulating small properties, providing them with a Settlement Certification before the regional Notary Public. This certification guarantees, together with sworn affidavits by witnesses, that the producer has remained in the land for the number of years that he affirms; this document has the “value of property” or usucapion².

The Benerito Association works with the IAD and distributes the certifications, executing the local actions. As for the Association, during the preparation of the present report, it was not possible to establish direct contact with their representatives. This contact shall be retried during execution of the resettlement actions, according to the described activities.

4. STRATEGY FOR RESETTLEMENT AND APPLICABLE SOLUTIONS

The final objective of the proposed resettlement is to guarantee adequate and equable release of the territories required for building the highway through mechanisms that will promote improvement of living conditions for vulnerable families. In fulfilling this objective, the resettlement shall replace the affected houses, improvements, and production that will be removed from the perimeter required for release of the right of way, thus ensuring that no affected individuals enter situations inferior to their previous ones, and instead guaranteeing an opportunity for economic and social development.

² Usucapion – Acquisition of a right by its exercise under the conditions and for the time foreseen by law.- Dictionary of the Spanish Royal Academy, SPAIN, Madrid, 1997.
4.1. Concepts, Standards and Criteria

To establish the options of possible solutions taking into consideration the socioeconomic profile of those affected as well as the existing regulation.

I – Conduct of the Government as to expropriations and compensation: The procedure is formal and adequate in the Dominican Republic, taking into consideration, for payment of the expropriation, the documents of ownership or of land possession (such as the IAD certification). Under this treatment, land occupants without formalized documentation equally receive, for their property, the amounts to be indemnified. This solution meets the needs of all those who would be considered as owners – both regularized and not regularized.

II – Socioeconomic registry: It is necessary to apply the socioeconomic registry to all types of those affected, such as is explicit in the questionnaire itself: Owners, occupants, tenants, caretakers, employees living in houses granted by their employers, and in any other situation of occupation. This registry, as already commented, should be applied in all small properties alongside the right of way. For large properties (as is the case of Cia. Central Romana – sugarcane producer – and other productive agricultural properties), the data on the expropriation summary will be sufficient to characterize the expropriation and or resettlement public. With this characterization, the types affected by the highway are identified.

• Properties, owners and regular or regularized production, object of the legal expropriation action executed by the Dominican Government;

• Occupants, tenants, caretakers, residents of houses, grantees, and all other situations not covered by the formal indemnity process, object of the resettlement and development actions proposed herein.

In the case of large properties, whenever the right of way will affect occupants, caretakers, grantees in the conditions detailed previously, and will verify if the construction generates loss of housing, employment and/or income for this population. In these cases, the solutions described here shall be applied.

III – Description of the solutions applicable to all affected individuals according to their different conditions.

• Owners: Indemnity of lands, improvements, and production. This indemnity is made under three different conditions:

  • Indemnity of the Affected Real-Property: Whenever the owner has non-built terrains affected. In this case, the solution refers to the pecuniary indemnity of the real-property to be expropriated. The indemnity aims to compensate those affected with the payment, in cash and in advance, of the amount of the affected assets, as per fair and equable evaluation performed by the Evaluations Committee;

  • Indemnity of Real-Properties with terrains partially affected, without impact on buildings: this is the case of a property that will be partially affected, but the use for housing or mixed with economic activities will not be affected by the
work. The solution to this case is the pecuniary indemnity of the portion to be expropriated;

- **Indemnity to Non-Resident Owners of Affected Buildings**: this is the case of property that will be affected, but the housing use is not exercised by the owner, but by another tenant, grantee, caretaker. The solution for the real properties in this situation is (i) the pecuniary indemnity of the expropriated real-property and (ii) support to reinstallation of the occupant, regardless of his occupancy situation.

For those who are not owners and, therefore, are not being contemplated with the policy of expropriations practiced by the Government, the additional solutions are identified, in accordance with the principles of the OP-710.

- **Occupants**: Indemnity of lands, production and improvements, under the same conditions as those applicable to the owners of regular documentation or possession – taking into account that the possession documentation is accepted as legal document by the acknowledgement process used by the Government.

- **Population in a situation of Vulnerability**: Generate solutions for resettlement of families, seeking to provide for the situations of:

  - **Housing Relocation**: housing units made viable by the work (contractor’s support), by means of donation of a construction-material kit equivalent to a popular house, that is to say, from 36 to 40 m². One equally efficient alternative is that the contractor will assume construction of the houses, taking into consideration his experience and installed capacity in the existing camps;

  - **Rent Aid**: pecuniary indemnity in an amount to be estimated at the location of El Limón and Benerito, corresponding to a 6 month rent for temporary housing reposition.

These solutions are destined to vulnerable families previously defined in two distinct situations:

- **Granted**: Dwellers who occupy housed granted or lent by the owners of the expropriated lands. In this case, one may apply the solution of housing or temporary rental solution;

- **Employees or caretakers**: Dwellers who occupy houses which they themselves have built or were built by their employers. In this case, and in the assumption that employment is maintained in the same property, the housing replacement solution shall apply. If the employee does not maintain his employment because of the expropriation of the highway, the offer of pecuniary indemnity below applies.

**IV – Development proposals for situations of social and economic fragility**: Are tools intended for the recovery or increment of the quality of life of the low-income population affected by the right of way (in the km 35-36 for example).
• Offer of capacity-building in agricultural management of subsistence (beans, cassava) which are usually cultivated in the region by small producers. This solution is directed to all those interested from the low-income communities in vulnerable situations (of El Limón and others under similar condition), for increasing productivity of their cultures and professional capacity-building. The operability of this solution will be made by the hiring of an agricultural engineer by the contractor, who will work in coordination with the social assistant responsible for the socioeconomic registry, and direct contact with the community;

• Operating transport support when moving the families from their place of origin to the new address – availability of truck and help, under the contractor’s responsibility, in coordination with the social assistant;

• Offer of employment at the work or in subcontractors for those affected who lose their jobs because of the resettlement and, therefore, will be in a situation of risk of impoverishment; or

• Offer of pecuniary indemnity calculated as a function of six (6) salaries not received, for those affected who lose their jobs as a function of the work.

V – Terms of Acceptance of the Solution applied: These terms, to be signed before the end of the payments, are intended to ensure knowledge by those affected about the solutions and values practiced. An example model of Terms of Acceptance is available in Annex 6.

VI – Conditions prior to the proposed procedures.

For the solutions and strategy of resettlement and development to be successful, it is necessary to carry out some prior activities, identified during preparation of this Report. These activities are described below. This constitutes the critical path for resettlement and, if these actions are adequately carried out, no other questions of execution are anticipated for this theme.

• Contracting of social assistant to implement the actions described in this strategy – the professional will be in charge of completing the actions proposed herein, such as completion of the registry, communication and participation of the families, discussion of alternatives, link with the government team to accompany the completion of the processes already started, etc.

• Contracting of agricultural engineer with the responsibility of establishing agricultural management plans for the families interested in development and capacitation, in accordance with and with the support of the social assistant;

• Definition of the Registry of those Affected and titleholders of the solutions and compensations already anticipated – it is the case of accurately defining the “blank population” of the project and the quantification of the applicable solutions. This is because only the owners have a cadastre; the occupants, employees and tenants were not subject of the inquiry. It is already known that in the present case a great part of the negotiations for land, improvements and production indemnity will be conducted with Cia. Central Romana and some other owners. Already, 119 properties are listed where the solutions pointed above (Owners 1,
2 and 3) are already in course and correspond to most solutions negotiated. Nevertheless, for the situation of vulnerability as characterized herein, (El Limón and wherever present) it is necessary to qualify the beneficiaries by type of solution, in accordance with its typology – owner, grantee, caretaker/worker, tenant, donation, etc. and its relationship with the affected property;

- **Disclose to the population and inform** them of the indemnity and support solutions and the compensations under the conditions agreed upon;
- **Formalize adherence to the solution** presented – Term of Acceptance;
- **Effect the execution of the solutions**, under actual conditions, such as:
  - Delivery of check in the amount to expropriate under the terms as agreed upon;
  - Delivery of support checks to those framed in the solution of loss of employment under the terms as agreed upon;
  - Make Available the Rent Aid and/or donation of construction material at the site indicated by the family.

With the already described hiring of professionals it will be possible to render viable the development of the stages of social work and capacity-building that culminate with the implementation of the necessary resettlement and compensation solutions.
VII – Estimated Costs

Based on the definition of the applicable solutions and on the universe of those affected, it is possible to preliminarily define the individualized costs of each alternative as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>To define</th>
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<tbody>
<tr>
<td>Kit of Construction Material – popular house 36 to 40 m²</td>
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</tr>
<tr>
<td>Rental Aid (6 months)</td>
<td></td>
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<tr>
<td>Move support (driver, truck, help)</td>
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<tr>
<td>Employment support</td>
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<tr>
<td>Employment replacement indemnity (6 months)</td>
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<tr>
<td>Contracting of Agricultural Engineer</td>
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<tr>
<td>Contracting of Social Assistant</td>
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The total costs for execution of the actions pointed out herein depend on the completion of the social registry and the definition of which alternative will be applicable to the each case as identified.

VIII - Monitoring

To ensure efficient monitoring it is necessary to define the indicators that may identify the success of the solutions proposed in this report. Thus, it is proposed as follows:

- Checking of vulnerable families served by the benefits of resettlement, by type of solution applicable – the instrument for checking will be the list of the total families benefited and the Terms of Acceptance signed;

- Checking of the number of proposals for agricultural management implemented – the checking instrument will be the number of requests of agricultural handling, by request date.

The results of this monitoring shall constitute a report to be elaborated six (6) months after completion of the resettlement actions and other benefits proposed herein.
5. **TECHNICAL TEAM**

<table>
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<tr>
<th>Technician</th>
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</thead>
<tbody>
<tr>
<td>Décio Freire</td>
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<td>CREA 2603060910</td>
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<td>Marisa Teixeira</td>
<td>Sociologist</td>
<td>-</td>
</tr>
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