

Comparative Analysis of Cambodia's Legal Framework and Involuntary Resettlement Safeguards in the ADB Safeguard Policy Statement

(A) <i>ADB Safeguard Policy Statement</i>	(B) <i>Corresponding Provisions in National Policy and Legal Instruments¹</i>	(C) <i>Extent of Equivalence²</i> <i>Review comments</i>	(D) <i>Recommendations</i>
Involuntary Resettlement Safeguards			
Objectives: To avoid involuntary resettlement wherever possible; to minimize involuntary resettlement by exploring project and design alternatives; to enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels; and to improve the standards of living of the displaced poor and other vulnerable groups.			
Key element (1): Avoid involuntary resettlement wherever possible	<p>Circular on the Resettlement Implementation Procedure for Development Projects, No. 006 MEF, 2016</p> <p>A. Feasibility study of the development projects</p> <p>1- In principle, engineering work on development projects may be undertaken only after when the resettlement has been figured out. In this regard, the implementation of project engineering work may be hindered if the comprehensive study on scope of impact on citizens' properties is not conducted at the phase of project feasibility study.</p> <p>The Ministry of Economy and Finance, therefore, calls all ministries/institutions implementing the projects on restoring, expanding and building public physical infrastructures to cooperate with the Resettlement Department of the Ministry of Economy and Finance's General Secretariat in examining the possible avoidance of the impact... of the development projects at the phase of each feasibility study on each project.</p> <p>Sub-Decree No. 146 ANK/BK on Economic Land Concessions 2005</p> <p>Chapter 2: General Conditions for Granting an Economic Land Concession</p> <p>Article 4</p> <p>An economic land concession may be granted only on a land that meets all of the following five criteria:...</p>	Full equivalence	

¹ All text is direct citation from the official versions of the policy documents and legal instruments except where otherwise indicated by annotation.

² "Full Equivalence" denotes that the national legal instruments are in complete harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element thereof. "Partial Equivalence" denotes that the national legal instruments are in partial harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element; and "No Equivalence" denotes that no legal requirement can be found that corresponds to the particular ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element. It is intended that the referenced text of the national legal instruments be sufficiently clear to demonstrate the findings of Full Equivalence or No Equivalence without further explanation, except in those instances where an explanation would appear necessary and is given. A finding of Partial Equivalence normally requires the explanation provided. In some cases, there may be full equivalence for one issue, but only partial equivalence or no equivalence for one or more of the other issues governed by a particular legal instrument. In such cases, the degree of equivalence for each issue is indicated.

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	<p>4. Land that has solutions for resettlement issues, in accordance with the existing legal framework and procedures. The Contracting Authority shall ensure that there will not be involuntary resettlement by lawful land holders and that access to private land shall be respected.</p> <p>Article 5 Evaluating Economic Land Concession proposals shall be based on the following criteria:...</p> <ul style="list-style-type: none"> ▪ Avoidance...of adverse social impacts;... <p>Chapter 3: Procedures for Initiating, Requesting and Granting Economic Land Concessions Part 1: Initiating Economic Land Concessions through Solicited Proposals Article 12 The application for Solicited Proposal shall include the following:...</p> <ul style="list-style-type: none"> ▪ Indication of the...social impacts of the proposed investment activity and preventive...measures the proposer will take;... <p>Article 14 The criteria for ranking and evaluating solicited proposals shall include the following:...</p> <ul style="list-style-type: none"> ▪ ...provision of sound preventive...measures for adverse...social impacts;... <p>Land Law 2001³ Chapter 1 – Principles of Ownership Article 5 No person may be deprived of his ownership, unless it is in the public interest. An ownership deprivation [expropriation] shall be carried out in accordance with the forms and procedures provided by law and regulations and only after the payment of just and equitable compensation.</p> <p>Chapter 3 – Collective Ownership Part 2: Immovable Property of Indigenous Communities Article 26</p>		

³ The National Strategic Development Plan 2014-2018 identifies developing a new land law and a new Law on land management and urban planning as priority actions (Chapter IV.B., section 4.63).

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	<p>Ownership of the immovable properties described in Article 25 is granted by the State to the indigenous communities as collective ownership....The provisions of this article are not an obstacle to the undertaking of works done by the State that are required by the national interests or a national emergency need.</p> <p>Electricity Law 2001 Chapter VIII Other Regulations on the Electric Power Services Article 55: ...The licensee shall take reasonable efforts through negotiations and conciliation with the owners of the lands and by paying appropriate compensation to acquire necessary rights of entry, rights of way, and/or easements. In the event that licensee is unable to obtain such rights through reasonable efforts as stated above, the Authority, upon request by the licensee, shall intervene to the relevant authority to settle these issues in the public interest.</p>		
<p>Key element (2): Minimize involuntary resettlement by exploring project and design alternatives</p>	<p>Circular on the Resettlement Implementation Procedure for Development Projects, No. 006 MEF, 2016</p> <p>A. Feasibility study of the development projects 1- In principle, engineering work on development projects may be undertaken only after when the resettlement has been figured out. In this regard, the implementation of project engineering work may be hindered if the comprehensive study on scope of impact on citizens' properties is not conducted at the phase of project feasibility study. The Ministry of Economy and Finance, therefore, calls all ministries/institutions implementing the projects on restoring, expanding and building public physical infrastructures to cooperate with the Resettlement Department of the Ministry of Economy and Finance's General Secretariat in...minimizing the impact of the development projects at the phase of each feasibility study on each project.</p> <p>B. Implementation of resettlement plan 2- Before commencement of the implementation of the resettlement work, in order to ensure the smooth implementation of resettlement and minimum impact, the representatives from project implementing ministries/institutions which are members of the Inter-Ministerial Resettlement Committee shall prepare official letters of request of the ministries/institutions concerned implementing the projects by enclosing</p>	<p>Full equivalence</p>	

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	<p>relevant documents such as detailed technical designs and study on options, at least two, for resettlement so that the Inter-Ministerial Resettlement Committee may choose any option that can minimize the impact of the projects.</p> <p>C. Post implementation of resettlement plan 2- The General Department of Budget of the Ministry of Economy and Finance shall continue to cooperate with project implementing ministries/institutions in order to include the terms and conditions in the construction contract in which the construction company is required to clean construction location to avoid additional impacts to the property and economic activities of the affected people.</p> <p>Sub-Decree No. 146 ANK/BK on Economic Land Concessions 2005 Chapter 2: General Conditions for Granting an Economic Land Concession Article 4 An economic land concession may be granted only on a land that meets all of the following five criteria:...</p> <p>3. ...social impact assessments have been completed with respect to the land use and development plan for economic land concession projects.</p> <p>4. Land that has solutions for resettlement issues, in accordance with the existing legal framework and procedures. The Contracting Authority shall ensure that there will not be involuntary resettlement by lawful land holders and that access to private land shall be respected.</p> <p>Article 5 Evaluating Economic Land Concession proposals shall be based on the following criteria:...</p> <ul style="list-style-type: none"> ▪ ...minimizing of adverse social impacts;,,, <p>Chapter 3: Procedures for Initiating, Requesting and Granting Economic Land Concessions Part 1: Initiating Economic Land Concessions through Solicited Proposals Article 12 The application for Solicited Proposal shall include the following:...</p> <ul style="list-style-type: none"> ▪ Indication of the...social impacts of the proposed investment activity and...reduction measures the proposer will take;... 		

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	Article 14 The criteria for ranking and evaluating solicited proposals shall include the following:... <ul style="list-style-type: none"> ▪ ...provision of sound...reduction measures for adverse...social impacts;... 		
Key element (3): Enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels	No corresponding legal provision	No equivalence	Amend Sub-Decree No. 146 ANK/BK on Economic Land Concessions 2005 and Sub Decree on Social Land Concessions No. 19 ANK/BK/ March 19, 2003 to explicitly stipulate that in cases of economic land concessions and/or expropriation, social land concessions and related measures must enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels. Amend MEF Circular No. 006/2016, or issue an additional circular, to explicitly stipulate that, in the event of involuntary resettlement, the resettlement plan must provide for enhancing, or at least restoring, the livelihoods of all displaced persons in real terms relative to pre-project levels.
Key element (4): Improve the	Circular No.02.SR on Measures against Illegal Holding of State Land, 26 February 2007 (Circular No. 2 Illegal Holding of State Land	Full equivalence	

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standards of living of the displaced poor and other vulnerable groups.	<p>2007)</p> <p>6. For illegal state land holder(s):...</p> <p>6.2- For illegal state land holders who are poor families and landless or lack of land and disadvantaged person, they are not entitled for compensation but may receive preferential treatment in obtaining appropriate size of land for making their livelihood based on their actual situation....</p> <p>6.3- In case of involving indigenous people whose traditional authority asserted that the land parcel or part of the land parcel which is the subject of reclaim is under a collective use in accordance with their traditional practice, in such case land reclaim must be postponed until the land is registered as state land (not land of an indigenous community)....</p> <p>Sub-Decree No. 146 ANK/BK on Economic Land Concessions 2005 Chapter 2: General Conditions for Granting an Economic Land Concession Article 5 Evaluating Economic Land Concession proposals shall be based on the following criteria:...</p> <ul style="list-style-type: none"> ▪ Promotion of living standards of the people;... ▪ Avoidance or minimizing of adverse social impacts; ▪ Any linkages and mutual support between social land concessions and economic land concessions... <p>Chapter 3: Procedures for Initiating, Requesting and Granting Economic Land Concessions Part 1: Initiating Economic Land Concessions through Solicited Proposals Article 14 The criteria for ranking and evaluating solicited proposals shall include the following:...</p> <ul style="list-style-type: none"> ▪ ...promotion of living standards of the people;... <p>Sub Decree on Social Land Concessions No. 19 ANK/BK/ March 19, 2003 Chapter 1. General Provisions Article 2. The following terms have the meanings defined below: (a) "Social land concession" is a legal mechanism to transfer private</p>		

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	<p>state land for social purposes to the poor who lack land for residential and/or family farming purposes.</p> <p>Article 3. Social land concessions may be granted for one or more of the following social purposes:...</p> <p>3. Provide land to resettle families who have been displaced resulting from public infrastructure development.</p> <p>Chapter 4. Necessary Requirements for Social Land Concession Planning Article 10.... No person may deny the right of participation in a social land concession program to head of family who is a female, a person with a disability... a veteran with a disability... or a demobilized soldier.</p> <p>Land Law 2001 Chapter 5 –Land Concessions Article 49 Land concessions shall respond to a social or economic purpose. Land concessions responding to a social purpose allow beneficiaries to build residential constructions or to cultivate lands belonging to the State for their subsistence....</p> <p>Article 51 A land concession may not be gratuitously granted except for the concession responding to a social purpose given to poor families to establish a residence for themselves or to develop subsistence cultivation.</p> <p>Article 52 ...A land concession cannot establish ownership rights on the land provided for concession except for concessions responding to social purposes.</p>		
Scope and Triggers: The involuntary resettlement safeguards cover physical displacement (relocation, loss of residential land, or loss of shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas. It covers them whether such losses and involuntary restrictions are full or partial, permanent or temporary.			
	<p>Circular on the Resettlement Implementation Procedure for Development Projects, No. 006 MEF, 2016 A. Feasibility study of the development projects</p>	<p>Partial equivalence The legal regime provides generally</p>	<p>Amend the Law on Expropriation 2010 and the Land Law 2001 to</p>

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	<p>1- In principle, engineering work on development projects may be undertaken only after when the resettlement has been figured out. In this regard, the implementation of project engineering work may be hindered if the comprehensive study on scope of impact on citizens' properties is not conducted at the phase of project feasibility study.</p> <p>Sub-Decree No. 146 ANK/BK on Economic Land Concessions 2005 Chapter 3: Procedures for Initiating, Requesting and Granting Economic Land Concessions Part 1: Initiating Economic Land Concessions through Solicited Proposals Article 7 A Contracting Authority may initiate an economic land concession project by taking the following preparatory steps:...</p> <p>5. If the initial...social impact assessment indicates a medium or high degree of adverse impact, arrange for the conduct of a full...social impact assessment.</p> <p>Part 2: Initiating Economic Land Concession Projects through Unsolicited Proposals Article 20 The detailed unsolicited proposal shall contain the following:...</p> <ul style="list-style-type: none"> ▪ A report of an initial...social impact assessment. If the initial...social impact assessment indicates a medium or high de[g]ree of possible adverse impact, the proposal shall also include a report of full...social impact assessment. 	<p>for triggering social impact assessments, and for compensation for loss of land (see Policy Principle 3, Key element 1) but does explicitly provide safeguards for loss of other aspects of physical and economic displacement.</p> <p>The preamble to MEF Circular No. 006/2016 states that the Circular is "based on the resettlement policy of the financing development partners", but does not reflect include all aspects of those policies.</p>	<p>stipulate that involuntary resettlement safeguards cover all aspects of physical and economic displacement, whether they are full or partial, permanent or temporary.</p> <p>Amend MEF Circular No. 006/2016, or issue an additional circular, to stipulate that involuntary resettlement safeguards cover all aspects of physical and economic displacement, whether they are full or partial, permanent or temporary.</p>
Policy Principle 1: Screen the project early on to identify past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks.			
Key element (1): Screen the project early on	<p>Circular on the Resettlement Implementation Procedure for Development Projects, No. 006 MEF, 2016 A. Feasibility study of the development projects 1- In principle, engineering work on development projects may be undertaken only after when the resettlement has been figured out. In this regard, the implementation of project engineering work may be hindered if the comprehensive study on scope of impact on citizens' properties is not conducted at the phase of project feasibility study.</p> <p>Sub-Decree No. 146 ANK/BK on Economic Land Concessions 2005 Chapter 3: Procedures for Initiating, Requesting and Granting Economic Land Concessions</p>	Full equivalence	

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	<p>Part 1: Initiating Economic Land Concessions through Solicited Proposals Article 7 A Contracting Authority may initiate an economic land concession project by taking the following preparatory steps:...</p> <p>4. Arrange for the conduct of an initial...social impact assessment of the proposed economic land concession project. 5. If the initial...social impact assessment indicates a medium or high degree of adverse impact, arrange for the conduct of a full...social impact assessment.</p>		
<p>Key element (2): Identify past, present, and future involuntary resettlement impacts and risks</p>	<p>Sub-Decree No. 146 ANK/BK on Economic Land Concessions 2005 Chapter 2: General Conditions for Granting an Economic Land Concession Article 4 An economic land concession may be granted only on a land that meets all of the following five criteria:...</p> <p>3. ...social impact assessments have been completed with respect to the land use and development plan for economic land concession projects. 4. Land that has solutions for resettlement issues, in accordance with the existing legal framework and procedures. The Contracting Authority shall ensure that there will not be involuntary resettlement by lawful land holders and that access to private land shall be respected.</p> <p>Sub Decree on Social Land Concessions No. 19 ANK/BK/ March 19, 2003 Chapter 4. Necessary Requirements for Social Land Concession Planning Article 9. The requirements for social land concession planning include:...</p> <p>(g) An assessment of social...impacts of the program and a description of appropriate actions....</p>	<p>Partial equivalence</p> <p>The legal regime does not appear to address past involuntary resettlement impacts and risks.</p>	<p>Amend Sub-Decree No. 146 ANK/BK on Economic Land Concessions 2005 and Sub Decree on Social Land Concessions No. 19 ANK/BK/ March 19, 2003 to explicitly stipulate that social impact assessments for the purposes of economic and social land concessions that involve involuntary resettlement must identify past, as well as present and future, involuntary resettlement impacts and risks.</p> <p>Amend MEF Circular No. 006/2016, or issue an additional circular, to explicitly stipulate that social impact assessments must take past, as well as present and future, involuntary resettlement impacts and risks into account.</p>

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Key element (3): Determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks	<p>Law on Expropriation 2010 Chapter 4 Expropriation Procedures Section 1: Procedures for Prior Expropriation Article 16: Before proposing an expropriation project, the Expropriation Committee shall publicly conduct a survey by recording a detailed description of all rights of the owners and/or rightful owners to the immovable property and other properties which might be needed for compensation....</p> <p>Sub Decree on Social Land Concessions No. 19 ANK/BK/ March 19, 2003 Chapter 4. Necessary Requirements for Social Land Concession Planning Article 9. The requirements for social land concession planning include:... (c) Detailed information about the selection of target land recipients, including - Any preferences for vulnerable groups under article 11 of this sub-decree and - The means used for verifying that target land recipients meet the established eligibility and preference criteria....</p>	Full equivalence	
Policy Principle 2: Carry out meaningful consultations with affected persons, host communities, and concerned nongovernment organizations. Inform all displaced persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programmes. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land, and ensure their participation in consultations. Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns. Support the social and cultural institutions of displaced persons and their host population. Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase.			
Key element (1): Carry out meaningful consultations with affected persons, host communities, and concerned nongovernment organizations	<p>Circular on the Resettlement Implementation Procedure for Development Projects, No. 006 MEF, 2016 B. Implementation of resettlement plan 6- Before the working group starts to carry out detailed examination and assessment of the impact, the Inter-Ministerial Resettlement Committee shall organize a forum attended by relevant local authorities at all levels instead of the ordinary meeting with the Inter-Ministerial Resettlement Committee. The purpose of the forum is to disseminate basic information about the project, resettlement policy, project's technical design and to build the capacity of officials at the sub-national level for resettlement policy and procedures.</p>	Full equivalence Full equivalence is based on the Law on Expropriation 2010 and the Sub Decree on Social Land Concessions 2003, which require consultations with affected communities and residents. The more recent Circular No. 006/2016 only requires informing local officials so that they can then inform residents.	

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	<p>10- In all phases of the implementation of development project resettlement plan such as the detailed measurement survey, the negotiation to enter into contract and provision of compensation or allowance, the Inter-Ministerial Resettlement Committee shall hold discussion meetings and meetings to disseminate the information in an extensive manner to the affected people by the development projects.</p> <p>Law on Expropriation 2010 Chapter 4 Expropriation Procedures Section 1: Procedures for Prior Expropriation Article 16: ...In conducting this survey, the Expropriation Committee shall arrange a public consultation with the authorities at capital, provincial, municipal, district, khan levels, and with the commune and sangkat councils and village representatives or the communities affected by the expropriation in order to give them clear and specific information and to have opinions from all concerned parties about the proposal for a public physical infrastructure project....</p> <p>Circular No. 3 Temporary Urban Settlements 2010 3. Households and population census in temporary settlements ...The household statistic table which have already compiled shall be publicly displayed for a period of 30 days at the temporary settlements and at the commune/Sangkat office in order to collect suggestions from local residents;...</p> <p>Sub Decree on Social Land Concessions No. 19 ANK/BK/ March 19, 2003 Chapter 2. Local Social Land Concession Programs Article 7. ...In initiating a national social land concession plan, there shall be participation from the concerned Provincial/Municipal Land Use and Allocation Committee, commune councils and area residents....</p> <p>Chapter 4. Necessary Requirements for Social Land Concession Planning Article 9. The requirements for social land concession planning include:... (e) Detailed information about the application process, including the place where applicants filed applications, the person who was responsible for publicizing the application process and the person who was responsible for posting the names of applicants, the place where</p>		

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	<p>the notices were posted and other administrative details of the application process.....</p> <p>Article 12. The notice of the application process for social concession land shall be open and this work shall be publicized at least thirty (30) days prior to the deadline for making applications in one or more public places in the concession land area....</p> <p>Article 13. A list of all applicants shall be posted in a public place at least thirty (30) days before the applications are evaluated. The posting places shall be defined in the social land concession plan....</p> <p>Sub-decree 72ANK-BK/11Aug99 on Environmental Impact Assessment Process (EIA Sub-decree 1999) Chapter 1: General Provisions Article 1: The main objectives of this Anukret are:... To encourage public participation in the implementation of the EIA process and take into account their input and suggestions in the process of project approval.</p>		
<p>Key element (2): Inform all displaced persons of their entitlements and resettlement options</p>	<p>Circular on the Resettlement Implementation Procedure for Development Projects, No. 006 MEF, 2016 B. Implementation of resettlement plan 7- The Inter-Ministerial Resettlement Committee shall advise the working group to explain the legality and coordinate with citizens in a peaceful manner in order for them to remove, by themselves, the light constructions and movable small shelters such as small and light selling stores, stables for cattle, haystacks or houses for chickens/ducks etc. which are built on the right of way without resettlement for them.</p> <p>Law on Expropriation 2010 Chapter 4 Expropriation Procedures Section 1: Procedures for Prior Expropriation Article 16: Before proposing an expropriation project, the Expropriation Committee shall publicly conduct a survey by recording a detailed description of all rights of the owners and/or rightful owners to the immovable property and other properties which might be needed for compensation... In conducting this survey, the Expropriation Committee shall arrange a public consultation with the authorities at capital, provincial, municipal,</p>	<p>Full equivalence</p>	

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	<p>district, khan levels, and with the commune and sangkat councils and village representatives or the communities affected by the expropriation in order to give them clear and specific information and to have opinions from all concerned parties about the proposal for a public physical infrastructure project.</p> <p>Article 17: With the government's approval, the Expropriation Committee shall issue a declaration of the expropriation project to the owners and/or the rightful owners about the immovable property which is the subject matter of the expropriation, and the purpose of the deprivation of ownership over or right to the immovable property shall be clearly set out, according to the following legal processes:...</p> <ul style="list-style-type: none"> - send the declaration accompanying a copy of this law to all owners and/or rightful owners; - put up a sign that identifies "the immovable property that is the subject matter of expropriation for the interest of public physical infrastructure"; - disseminate the declaration via media; - post this declaration at relevant commune and sangkat offices where the public physical infrastructure is going to take place, and the declaration shall be disseminated by the village chief to the relevant residents. <p>Sub Decree on Social Land Concessions No. 19 ANK/BK/ March 19, 2003 Chapter 6. Administration and Implementation Article 26. The District Working Group shall have the following functions and duties:...</p> <p>3. Ensure that the allocation of social concession land at the local level is efficient and transparent.</p>		
Key element (3): Ensure the participation of displaced persons in planning, implementation, and monitoring and evaluation of	<p>Sub Decree on Social Land Concessions No. 19 ANK/BK/ March 19, 2003 Chapter 2. Local Social Land Concession Programs Article 5. A commune council is an initiator of a local social land concession program by preparing a social land concession plan in accordance with the requirements for social land concession plans as stated in Chapter 4 of this sub-decree. One or more citizens or organizations working with or on behalf of citizens in a commune, may initiate a local social land</p>	<p>Partial equivalence</p> <p>The Sub Decree on Social Land Concessions provides that citizens or organizations working on behalf of citizens may – it appears that this is voluntary – initiate a social land concession program by preparing a social land concession plan. The</p>	<p>Amend the Law on Expropriation 2010 to explicitly stipulate that, in the event of expropriation and involuntary resettlement, the Expropriation Committee must ensure the participation of displaced</p>

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resettlement programmes	<p>concession program, that shall be done through the commune council, in which the social concession land is located, by preparing a social land concession plan...</p> <p>Article 8. A National Social Land Concession Program that has already been approved shall be implemented by the ministry or institution or proposer as specified in the National Social Land Concession Plan, in coordination with the Provincial/ Municipal Land Use and Allocation Committee, commune council and residents in the involved area, unless the approved National Land Concession Program states otherwise...</p> <p>Chapter 4. Necessary Requirements for Social Land Concession Planning Article 9. The requirements for social land concession planning include:...</p> <p>(e) Detailed information about the application process, including the place where applicants filed applications, the person who was responsible for publicizing the application process and the person who was responsible for posting the names of applicants, the place where the notices were posted and other administrative details of the application process.....</p> <p>Circular No. 3 Temporary Urban Settlements 2010 3. Households and population census in temporary settlements ...The household statistic table which have already compiled shall be publicly displayed for a period of 30 days at the temporary settlements and at the commune/Sangkat office in order to collect suggestions from local residents;...</p>	legal regime does not appear to explicitly require participation of displaced persons in planning for involuntary resettlement.	<p>persons in planning, implementation, and monitoring and evaluation of resettlement programmes.</p> <p>Amend Sub-Decree No. 146 ANK/BK on Economic Land Concessions 2005 and Sub Decree on Social Land Concessions No. 19 ANK/BK/ March 19, 2003 to explicitly stipulate that when economic and/or social land concessions involve involuntary resettlement, District Working Groups and other authorities must ensure the participation of displaced persons in planning, implementation, and monitoring and evaluation of resettlement programmes.</p> <p>Amend MEF Circular No. 006/2016, or issue an additional circular, to explicitly stipulate that the Inter-Ministerial Resettlement Committee must ensure the participation of displaced persons in planning, implementation, and monitoring and</p>

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			evaluation of resettlement programmes.
<p>Key element (4): Ensure the participation in consultations of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land</p>	<p>Constitution Article 35 Khmer citizens of both sexes have the right to participate actively in the political, economic, social and cultural life of the nation.</p> <p>Circular No. 3 Temporary Urban Settlements 2010 3. Households and population census in temporary settlements ...The household statistic table which have already compiled shall be publicly displayed for a period of 30 days at the temporary settlements and at the commune/Sangkat office in order to collect suggestions from local residents;...</p> <p>Sub Decree on Social Land Concessions No. 19 ANK/BK/ March 19, 2003 Chapter 4. Necessary Requirements for Social Land Concession Planning Article 10.... No person may deny the right of participation in a social land concession program to head of family who is a female, a person with a disability... a veteran with a disability... or a demobilized soldier.</p>	<p>Partial equivalence</p> <p>The legal regime specifies that vulnerable groups may not be denied the opportunity to participate in social land concession programs, but there does not appear to be a legal requirement to ensure the participation of vulnerable groups in consultations concerning involuntary resettlement.</p>	<p>Amend the Law on Expropriation 2010 and amend MEF Circular No. 006/2016 or issue an additional circular, to explicitly stipulate that, in the event of expropriation and involuntary resettlement, the Expropriation Committee and the Inter-Ministerial Resettlement Committee must ensure the participation of vulnerable groups in consultations concerning planning, implementation, and monitoring and evaluation of resettlement programmes.</p> <p>Amend Sub-Decree No. 146 ANK/BK on Economic Land Concessions 2005 and Sub Decree on Social Land Concessions No. 19 ANK/BK/ March 19, 2003 to explicitly stipulate that when economic and/or social land concessions involve involuntary resettlement, District Working Groups and other authorities must ensure the</p>

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			participation of vulnerable groups in displaced persons in consultations concerning planning, implementation, and monitoring and evaluation of resettlement programmes.
<p>Key element (5): Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns</p>	<p>Constitution Article 39 Khmer citizens have the right to denounce, make complaints, or file claims for reparations of damages caused by any breach of law by state and social organizations or by staff of those organizations. The settlement of complaints and the reparations of damages are of the competence of the courts.</p> <p>Law on Expropriation 2010 Chapter 3 Expropriation Mechanism Article 14: A Complaint Resolution Committee shall be established and led by representatives of Ministry of Land Management, Urban Planning and Construction, and representatives of other concerned ministries/institutions shall be involved. The organization and functioning of the Complaint Resolution Committee shall be determined by a separate sub-decree.</p> <p>Chapter 4 Expropriation Procedures Section 1: Procedures for Prior Expropriation Article 17: With the government's approval, the Expropriation Committee shall issue a declaration of the expropriation project to the owners and/or the rightful owners about the immovable property which is the subject matter of the expropriation, and the purpose of the deprivation of ownership over or right to the immovable property shall be clearly set out, according to the following legal processes:... - set a deadline for complaint;...</p> <p>Article 18:</p>	<p>Full equivalence</p>	

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	<p>After receiving this declaration of the expropriation project, the owner and/or the rightful owner can file a complaint for an investigation to find out if the expropriation is required for a real public and national interest or if it can be moved to other locations....</p> <p>After receiving the declaration on an expropriation project, the complaint shall be filed in a written form within 30 working days with the Complaint Resolution Committee... The main content of the complaint shall include:</p> <ul style="list-style-type: none"> - name of the owner and/or the rightful owner; address and telephone number; - reason for the complaint; - description of the legalities regarding the land; and - payment to owner and/or the rightful owner of the land to be expropriated. <p>However, the owner and/or the rightful owner of the immovable property cannot file a complaint for an investigation into the requirement for big development projects such as national roads, bridges, railroads, connection and distribution of water and electricity systems, kerosene pipes, sewage pipes, drainage systems or main drainage systems and irrigation systems.</p> <p>Within 30 days after completion of the investigation, the Complaint Resolution Committee shall write a report with recommendations and proposals for the government's review and approval.</p> <p>Section 2: Expropriation Procedures Article 19: ... The expropriation remains able to be exercised, even though the resolution of a dispute has not been completed. The owner and/or the rightful owner who has already received compensation from the Expropriation Committee still has the right to continue their complaint...</p> <p>Chapter 6 Dispute Resolution Article 32: The Expropriation Committee and the Complaint Resolution Committee are authorized to review and resolve complaints.</p> <p>Article 33: The owner and/or the rightful owner who do not agree with a decision by the Expropriation Committee can bring their complaint to the Complaint Resolution Committee.</p>		

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	<p>Article 34: If there is a disagreement with the decision on the complaint by the Complaint Resolution Committee, the owner and/or the rightful owner may bring their complaint to the competent court, concerning expropriation procedures carried out improperly, the expropriation which is not for public and national interest, and the compensation which is not fair and just. The formalities and complaint procedures shall be determined by sub-decree.</p> <p>Sub Decree on Social Land Concessions No. 19 ANK/BK/ March 19, 2003 Chapter 4. Necessary Requirements for Social Land Concession Planning Article 14. An applicant, whose name does not appear in the social land concession plan, and who believes that his application was not interpreted in conformity with the land law or other laws, may request review by the Provincial/Municipal Land Use and Allocation Committee or National Social Land Concession Committee by filing a written letter of request within twenty (20) days after the decisions to approve or disapprove applications are posted.... The Provincial/Municipal Land Use and Allocation Committee or National Social Land Concession Committee shall investigate and take appropriate action on the request within thirty (30) days after the Provincial/Municipal Land Use and Allocation Committee or National Social Land Concession Committee approves the relevant social land concession plan.</p>		
Key element (6): Support the social and cultural institutions of displaced persons and their host population	No corresponding legal provision	No equivalence	Amend MEF Circular No. 006/2016 or issue an additional circular to explicitly stipulate that the resettlement plan must include measures that ensure support for the social and cultural institutions of displaced persons and their host population.
Key element (7):	No corresponding legal provision	No equivalence	Amend the Law on

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Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase .			Expropriation 2010 and amend MEF Circular No. 006/2016 or issue an additional circular, to explicitly stipulate that, where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions must be preceded by a social preparation phase.
Policy Principle 3: Improve, or at least restore, the livelihoods of all displaced persons through (i) land-based resettlement strategies when affected livelihoods are land based where possible or cash compensation at replacement value for land when the loss of land does not undermine livelihoods, (ii) prompt replacement of assets with access to assets of equal or higher value, (iii) prompt compensation at full replacement cost for assets that cannot be restored, and (iv) additional revenues and services through benefit sharing schemes where possible.			
Key element (1): Improve, or at least restore, the livelihoods of all displaced persons through land-based resettlement strategies when affected livelihoods are land based, where possible, or cash compensation at replacement value for land when the loss of land does not undermine livelihoods	Constitution Article 44 ...Legal private ownership shall be protected by law. Expropriation shall be possible only if public utility demands in the cases stipulated by the law and if prior appropriate and fair compensation is granted. Law on Expropriation 2010 Chapter 1 General Provisions Article 1: This law aims to define an expropriation...and...fair and just compensation for any construction, rehabilitation, and public physical infrastructure expansion project for the public and national interests and development of Cambodia. Article 2: This law primarily aims to... - Ensure a fair and just compensation... Chapter 2 General Principles Article 11: Before exercising any expropriation, the government shall prepare sufficient annual budgets and grant credit fully and timely to the	Full equivalence	

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	<p>Expropriation Committee...for payment of compensation to the immovable property's owners or rightful owners affected by the expropriation.</p> <p>Article 17: With the government's approval, the Expropriation Committee shall issue a declaration of the expropriation project to the owners and/or the rightful owners about the immovable property which is the subject matter of the expropriation, and the purpose of the deprivation of ownership over or right to the immovable property shall be clearly set out, according to the following legal processes:...</p> <ul style="list-style-type: none"> - determine fair and just compensation;... <p>Chapter 4 Expropriation Procedures Section 2: Expropriation Procedures Article 20: ...The decision on an expropriation shall contain the following:...</p> <ul style="list-style-type: none"> - Compensation to be paid;... <p>Section 3: Compensation for Expropriation Article 22: Financial compensation given to the property owner and/or rightful owner shall be based on a market price or replacement price on the date of declaration of the expropriation. The market price or the replacement price shall be determined by an independent committee or agent selected by the Expropriation Committee.</p> <p>Article 23: The owner and/or the rightful owner has the right to compensation for actual damages commencing from the last date of declaration of expropriation for which they are entitled to fair and just compensation.</p> <p>Article 24: The compensation shall be made in cash, property or replacement rights, according to the actual situation and consent from the owner and/or the rightful owner and the Expropriation Committee....</p> <p>Article 25: The financial compensation shall be calculated using total compensation minus transfer tax and/or unused land tax which has not been paid to</p>		

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	<p>the state and the Expropriation Committee shall pay the tax to the national budget according to existing procedures.</p> <p>Article 26: The financial compensation for ownership of immovable property and real rights to immovable property does not include fluctuation of value occurring after the declaration of the expropriation project. This is because the fluctuation can be caused by a change of reserved land measures in urban planning which determines land use areas or approved land use plans or because of the declaration of the expropriation.</p> <p>Article 27: After receiving full financial compensation, the owner and/or rightful owner shall continue to be responsible for safekeeping, dwelling, possessing and benefiting from the right and immovable property until the property is taken by the Expropriation Committee.</p> <p>Chapter 5 Transitional Control and Management of the Immovable Property Article 30: After the date of the declaration of the expropriation project, the owner and/or rightful owner of the immovable property cannot sell or transfer the immovable property to other persons...</p> <p>Circular No. 3 Temporary Urban Settlements 2010 4. Solution finding 4.1 For settlers as owners of temporary settlements on state land which has been illegally occupied, the possible solutions may include: -Relocation where the temporary settlement's location is not suitable for on-site upgrading;...</p> <p>Circular No. 2 Illegal Holding of State Land 2007 6. For illegal state land holder(s):... 6.2- For illegal state land holders who are poor families and landless or lack of land and disadvantaged person, they are not entitled for compensation but may receive preferential treatment in obtaining appropriate size of land for making their livelihood based on their actual situation....</p> <p>Sub-Decree No. 146 ANK/BK on Economic Land Concessions 2005</p>		

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	<p>Chapter 6: Review of Existing Economic Land Concessions Article 42 ...In the existing economic land concessions review process, the Ministry of Land Management, Urban Planning and Construction shall regularize the land within the overall area of the economic land concession under review. Land regularization will include...adjudication of land rights of occupants of land parcels under review...</p> <p>Sub Decree on Social Land Concessions No. 19 ANK/BK/ March 19, 2003 Chapter 1. General Provisions Article 3. Social land concessions may be granted for one or more of the following social purposes:...</p> <p>3. Provide land to resettle families who have been displaced resulting from public infrastructure development....</p> <p>Chapter 3. National Social Land Concession Programs Article 7. A National Social Land Concession Program may be initiated by one or more concerned ministries or institutions in situations that are not suitable for a local social land concession program, in particular, in any of the following situations:...</p> <ul style="list-style-type: none"> ▪ Where there is a program to resettle large groups of families, such as urban squatters, or displaced persons.... <p>Chapter 6. Administration and Implementation Article 19. Procedures for the reversion of the social concession land shall be determined by prakas of the MLMUPC that specifies:...</p> <ul style="list-style-type: none"> - guidelines for the removal and determination of appropriate compensation for losses by the target land recipient. <p>Land Law 2001 Chapter 1 – Principles of Ownership Article 5 No person may be deprived of his ownership, unless it is in the public interest. An ownership deprivation shall be carried out in accordance with the forms and procedures provided by law and regulations and only after the payment of just and equitable compensation.</p> <p>Chapter 5 –Land Concessions</p>		

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	<p>Article 51 A land concession may not be gratuitously granted except for the concession responding to a social purpose given to poor families to establish a residence for themselves or to develop subsistence cultivation.</p> <p>Article 52 ...A land concession cannot establish ownership rights on the land provided for concession except for concessions responding to social purposes.</p> <p>Prakas No. 961, Implementing the policy on the Right-of-way policy for national road, provincial road, commune road, and railroad in the Kingdom of Cambodia 2000 ...the RGC will not use national budget to compensate anything that situated on the road and the railroad right-of- way.</p>		
<p>Key element (2): Improve, or at least restore, the livelihoods of all displaced persons through prompt replacement of assets with access to assets of equal or higher value</p>	<p>Law on Expropriation 2010 Article 24: The compensation shall be made in cash, property or replacement rights, according to the actual situation and consent from the owner and/or the rightful owner and the Expropriation Committee....</p>	<p>Full equivalence</p>	
<p>Key element (3): Improve, or at least restore, the livelihoods of all displaced persons through prompt compensation at full replacement cost for assets that cannot be restored</p>	<p>Law on Expropriation 2010 Chapter 5 Transitional Control and Management of the Immovable Property Article 29: A lessee who is holding a proper lease agreement is entitled to compensation for disruptions arising from dismantling equipment and transporting it to a relocation site. The immovable property's lessee who is operating a business shall have access to compensation for effects on the business and to just and fair additional compensation for the capital actually invested for the business operation. The compensation shall commence from the date of the declaration on an expropriation project.</p>	<p>Full equivalence</p>	

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	<p>For the expropriation of a location where a business is in operation, the owner is entitled to support of additional compensation at a fair and just rate for the cost of the property that is actually affected, commencing from the date of the declaration of the expropriation.</p> <p>Article 30: After the date of the declaration of the expropriation project... No construction on the land shall take place. The owner or the rightful owner of the immovable property shall not be entitled to compensation for new construction which is against the provisions of this law.</p> <p>Circular on the Resettlement Implementation Procedure for Development Projects, No. 006 MEF, 2016 C. Post implementation of resettlement plan 3- The Resettlement Sub-Committee shall take strict measures to remove the construction and other properties for which the monetary compensation or compensation has been made. 4- After completion of the projects, the Resettlement Sub-Committee shall strengthen the management and prevention of occupancy, again, over state land which has been resolved. The Inter-Ministerial Resettlement Committee shall not make any compensation for the construction and other properties which have been built or arranged on the resolved sties if further development in the near future is needed.</p> <p>Circular No. 3 Temporary Urban Settlements 2010 4. Solution finding 4.2 For settlers who rent from owners of temporary settlements, renters shall find a solution with the owners of the illegal settlements, and have no right to demand any compensation from the District/Khan/Municipal State Land Working Group or Capital city/Provincial State Land Management Committee or the authorities.</p> <p>Sub-Decree No. 197 S.E. on the Management of Rights of Way on National Roads and Railway Networks of the Kingdom of Cambodia 2009 Article 11. All relevant competent ministries and institutions shall not be authorized to place any construction, grow crops on the rights of way of national roads and railways. Any crop grown in an exploitation manner shall seek authorization in principal from the Royal Government and a contract with the relevant ministries and institutions shall be entered into. When the road needs to</p>		

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	<p>be developed, the State shall not be responsible for any compensation.</p> <p>Article 13.- The State shall pay compensation in line with the resettlement policy and in accordance with Article 148 of the Land Law to legal owners of re-determined plots, as specified in Articles 8 and 9 of this sub-decree for the development of physical infrastructure exceeding what has been determined prior to this sub-decree and in accordance with the existing laws and provisions.</p> <p>Article 14.- The compensation for lawful land occupancy, crops as well as fence and such constructions as dams, ditches, paddy land properly made in accordance with legal provisions shall be determined by the Royal Government.</p> <p>Civil Code 2008</p> <p>122. (Component of a land; principle rule) Things attached to land or comprising a part thereof, particularly buildings or structures immovably constructed on land, or seeds planted in the ground, crops in the fields or timber growing on the land, are components of the land unless they are severed from the land, and may not, except as otherwise provided by law, be the subject of rights separate from those applicable to the land.</p> <p>123. (Component of a land; exceptional rule) Where the holder of a right [to occupy or use] a land of another has constructed buildings or structures, or grown timbers, plants, etc. on the land in the course of exercising such right, those constructed or grown shall not become components of the land. The same shall apply to those things that are attached on the land for a purpose of temporary nature.</p> <p>124. (Building built based on exercise of right [to occupy or use] land owned by another) For the purposes of Article 123 (Component of a land; exceptional rule), buildings and other structures built on land by a right-holder, as well as grown timber, plants, etc. shall be deemed components of the right [to occupy or use] the land of another.</p> <p>186. (Affixture of movable to immovable) Where a movable is affixed to an immovable and becomes a component thereof, ownership of the immovable extends to the movable unless otherwise provided for under law or by agreement. In this case, the</p>		

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	<p>person losing rights to the movable may demand compensation from the owner of the immovable in accordance with the rules pertaining to unjust enrichment. However, no claim for restoration of the <i>status quo ante</i> shall be permitted.</p> <p>254. (Termination of perpetual lease) (1) Upon termination of a perpetual lease, the perpetual lessor cannot demand that the perpetual lessee restore the immovable to its original condition unless the perpetual lessee has destroyed the immovable or fundamentally changed its nature. (2) Upon termination of a perpetual lease, the lessor shall acquire the ownership over any improvements and any structures installed on the immovable by the perpetual lessee without having to pay compensation to the perpetual lessee.</p>		
<p>Key element (4): Improve, or at least restore, the livelihoods of all displaced persons through additional revenues and services through benefit sharing schemes where possible</p>	<p>Sub Decree on Social Land Concessions No. 19 ANK/BK/ March 19, 2003 Chapter 4. Necessary Requirements for Social Land Concession Planning Article 9. The requirements for social land concession planning include:.... (f) An assessment of the availability of infrastructures necessary to implement the plan, including such things as roads, water, electricity, schools, markets, health care center, and tools and equipment to develop the land, other services, information about how and when to prepare these physical infrastructures and to provide those public services....</p>	<p>Partial equivalence</p> <p>The legal regime requires planning for infrastructure and services in the context of social land concessions, which may or may not be used in the context of involuntary resettlement, but there does not appear to be a requirement to provide services in the specific context of involuntary resettlement. There also does not appear to be a requirement for benefit-sharing arrangements.</p>	<p>Amend MEF Circular No. 006/2016 or issue an additional circular, to explicitly stipulate that, in cases of involuntary resettlement, the resettlement plan must require improving, or at least restoring, the livelihoods of all displaced persons through additional revenues and services through benefit sharing schemes where possible.</p>
<p>Policy Principle 4: Provide physically and economically displaced persons with needed assistance, including the following: (i) if there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities, and extension of project benefits to host communities; (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (iii) civic infrastructure and community services, as required.</p>			
<p>Key element (1): Provide physically and economically displaced persons, if there is relocation, with</p>	<p>Circular No. 3 Temporary Urban Settlements 2010 5. Coordinated discussion in order to identify solution policies For temporary settlements which cannot be implemented with on-site upgrading and thus have to be relocated into new locations, shall develop practical plan before implementation and/or to assist as policies in order to facilitate relocation of the settlers. For on-site upgrading or relocation, the target beneficiary settlers may</p>	<p>Partial equivalence</p> <p>The legal regime allows secure tenure after a waiting period of 5 or 10 years. Public infrastructure and employment opportunities are explicitly enabled only for persons who are relocated</p>	<p>Amend MEF Circular No. 006/2016 or issue an additional circular, to explicitly stipulate that, in cases of involuntary resettlement, the resettlement plan must</p>

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<p>secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities, and extension of project benefits to host communities</p>	<p>obtain:...</p> <p>2. Ownership right after the beneficiary settlers have continuously occupied and lived on the approved location for at least 10 years, commencing from the date of agreed solution;...</p> <p>6. Basic public infrastructures and services to support livelihood ...b. Basic needed public infrastructure and services shall be prepared in advance for...relocation...and to also consider employment opportunities.</p> <p>7. Participation of stakeholders in development ...Local authorities together with Development Partners, NGOs and civil societies may work together in finding a solution by contributing moral, material and financial supports since the initiative stage of means to... facilitate employment generation for those population.</p> <p>Sub-Decree No. 146 ANK/BK on Economic Land Concessions 2005 Chapter 3: Procedures for Initiating, Requesting and Granting Economic Land Concessions Part 1: Initiating Economic Land Concessions through Solicited Proposals Article 14 The criteria for ranking and evaluating solicited proposals shall include the following:...</p> <ul style="list-style-type: none"> ▪ Feasibility of employment creation... <p>Sub Decree on Social Land Concessions No. 19 ANK/BK/ March 19, 2003 Chapter 5. Types of Social Concession Land and Occupancy Conditions Article 18.... After correctly complying with the criteria of the social land concession program for five (5) years the target land recipient has the right to ownership of the land and may request ownership title according to procedures determined in the instruction of the Minister of MLMUPC. If a target land recipient dies during the implementation of the social land concession program, the successors in the target land recipient's family may continue to implement the social land concession program to complete five (5) years and shall have the right to ownership of that land....</p> <p>Land Law 2001 Chapter 5 –Land Concessions</p>	<p>from temporary urban settlements. There does not appear to be any provision in the legal regime for supporting integration of resettled persons economically and socially into their host communities, or for extending project benefits to host communities.</p>	<p>require providing physically and economically displaced persons with secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integrating resettled persons economically and socially into their host communities, and extending project benefits to host communities.</p>

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	<p>Article 51 A land concession may not be gratuitously granted except for the concession responding to a social purpose given to poor families to establish a residence for themselves or to develop subsistence cultivation.</p> <p>Article 52 ...A land concession cannot establish ownership rights on the land provided for concession except for concessions responding to social purposes.</p>		
<p>Key element (2): Provide physically and economically displaced persons with transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities</p>	<p>Circular No. 3 Temporary Urban Settlements 2010 6. Basic public infrastructures and services to support livelihood ...b. Basic needed... services shall be prepared in advance for...relocation...and to also consider employment opportunities.</p> <p>7. Participation of stakeholders in development ...Local authorities together with Development Partners, NGOs and civil societies may work together in finding a solution by contributing moral, material and financial supports since the initiative stage of means to... facilitate employment generation for those population.</p> <p>Sub-Decree No. 146 ANK/BK on Economic Land Concessions 2005 Chapter 3: Procedures for Initiating, Requesting and Granting Economic Land Concessions Part 1: Initiating Economic Land Concessions through Solicited Proposals Article 14 The criteria for ranking and evaluating solicited proposals shall include the following:...</p> <ul style="list-style-type: none"> ▪ Feasibility of employment creation... 	<p>Partial equivalence</p> <p>The legal regime provides for considering employment opportunities for persons relocated from temporary urban settlements, but not in the context of expropriation or social land concessions. Proposals for economic land concessions must consider the feasibility of job creation, but there is no explicit link with involuntary resettlement.</p>	<p>Amend MEF Circular No. 006/2016 or issue an additional circular, to explicitly stipulate that, in cases of involuntary resettlement, the resettlement plan must require providing physically and economically displaced persons with transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities.</p>
<p>Key element (3): Provide physically and economically displaced persons with civic infrastructure and community services</p>	<p>Circular No. 3 Temporary Urban Settlements 2010 6. Basic public infrastructures and services to support livelihood ...b. Basic needed public infrastructure and services shall be prepared in advance for...relocation, such as roads, water supply, sewage, and other needed basic services including education and healthcare services...</p> <p>7. Participation of stakeholders in development In order to carry out any type of solution which is agreed by relevant stakeholders, the District/Khan/Municipal State Land Working Group</p>	<p>Partial equivalence</p> <p>The legal regime requires planning for civic infrastructure and community services in the context of social land concessions, which may be voluntary, and in the specific context of persons who are relocated from temporary urban settlements. There are no general requirements for providing</p>	<p>Amend MEF Circular No. 006/2016 or issue an additional circular, to explicitly stipulate that, in cases of involuntary resettlement, the resettlement plan must require providing physically and economically displaced</p>

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	<p>shall review the preparation of the location before leading to the implementation of action plan. All relevant stakeholders shall continue to support the target population in...cases of relocation...in order to help them to organize as a community or to continue the existing community organization which has already been organized by assisting them in developing community internal regulations and community savings based on voluntary principle....Local authorities together with Development Partners, NGOs and civil societies may work together in finding a solution by contributing moral, material and financial supports since the initiative stage of means to build and improve infrastructure, to provide basic needed public services...</p> <p>Sub Decree on Social Land Concessions No. 19 ANK/BK/ March 19, 2003 Chapter 4. Necessary Requirements for Social Land Concession Planning Article 9. The requirements for social land concession planning include:...</p> <p>(f) An assessment of the availability of infrastructures necessary to implement the plan, including such things as roads, water, electricity, schools, markets, health care center, and tools and equipment to develop the land, other services, information about how and when to prepare these physical infrastructures and to provide those public services....</p> <p>Chapter 6. Administration and Implementation Article 20. ...The National Social Land Concession Committee shall have the following duties and tasks:...</p> <p>- Facilitate the development of land development that lacks access to services and is unusable....</p> <p>Article 25. The technical support units of the Provincial/Municipal Land Use and Allocation Committee include:...</p> <p>3. The Development Technical Support Unit is headed by the Provincial/Municipal Department of Rural Development department and has the following duties:...</p> <p>▪ Ensure infrastructures and facilities are included in the social land concession plan and will be in place in a timely manner....</p>	<p>civic infrastructure and community services in the context of involuntary resettlement.</p>	<p>persons with civic infrastructure and community services.</p>
<p>Policy Principle 5: Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards. In rural areas provide them with legal and affordable access to land and resources, and in urban areas provide them with appropriate income sources and legal and</p>			

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affordable access to adequate housing.			
<p>Key element (1): Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards</p>	<p>Constitution Article 31 Every Khmer citizens shall be equal before the law, enjoying the same rights, freedom and fulfilling the same obligations regardless of race, color, sex, language, religious belief, political tendency, birth origin, social status, wealth or other status....</p> <p>Circular No. 2 Illegal Holding of State Land 2007 6. For illegal state land holder(s):... 6.2- For illegal state land holders who are poor families and landless or lack of land and disadvantaged person, they are not entitled for compensation but may receive preferential treatment in obtaining appropriate size of land for making their livelihood based on their actual situation.... 6.3- In case of involving indigenous people whose traditional authority asserted that the land parcel or part of the land parcel which is the subject of reclaim is under a collective use in accordance with their traditional practice, in such case land reclaim must be postponed until the land is registered as state land (not land of an indigenous community)....</p> <p>Sub-Decree No. 146 ANK/BK on Economic Land Concessions 2005 Chapter 2: General Conditions for Granting an Economic Land Concession Article 5 Evaluating Economic Land Concession proposals shall be based on the following criteria:...</p> <ul style="list-style-type: none"> ▪ Promotion of living standards of the people;... ▪ Any linkages and mutual support between social land concessions and economic land concessions... <p>Chapter 3: Procedures for Initiating, Requesting and Granting Economic Land Concessions Part 1: Initiating Economic Land Concessions through Solicited Proposals Article 14 The criteria for ranking and evaluating solicited proposals shall include the following:...</p> <ul style="list-style-type: none"> ▪ ...promotion of living standards of the people;... 	<p>Partial equivalence</p> <p>The legal regime provides for considering livelihoods when illegal state land holders are not eligible for compensation but may receive other, unspecified preferential treatment. Proposals for economic land concessions are evaluated in part on the basis of whether they promote living standards.</p> <p>There are no general requirements for improving the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards in the context of involuntary resettlement.</p>	<p>Amend MEF Circular No. 006/2016 or issue an additional circular, to explicitly stipulate that, in cases of involuntary resettlement, the resettlement plan must require improving the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards.</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	<p>Sub Decree on Social Land Concessions No. 19 ANK/BK/ March 19, 2003⁴ Chapter 1. General Provisions Article 2. The following terms have the meanings defined below: (a) "Social land concession" is a legal mechanism to transfer private state land for social purposes to the poor who lack land for residential and/or family farming purposes.</p> <p>Article 3. Social land concessions may be granted for one or more of the following social purposes:...</p> <p>3. Provide land to resettle families who have been displaced resulting from public infrastructure development.</p> <p>Chapter 4. Necessary Requirements for Social Land Concession Planning Article 10.... No person may deny the right of participation in a social land concession program to head of family who is a female, a person with a disability... a veteran with a disability...or a demobilized soldier.</p> <p>Article 11. Where there are more applicants than available land, a social land concession plan may include reasonable criteria for giving preferential treatment in the selection of target land recipients or the allocation of social land concession land based on the following:</p> <ul style="list-style-type: none"> ▪ large family size, having six (6) or more members ▪ time the family has lived in the social concession land area, ▪ the head of family is a woman, a person with a disability... a veteran with a disability... or a demobilized soldier. 		
Key element (2):	Sub Decree on Social Land Concessions No. 19 ANK/BK/ March 19,	Full equivalence	

⁴ The Rectangular Strategy for Growth, Employment, Equity and Efficiency Phase III 2013-2018 provides:

66. To achieve this objective, the Royal Government will focus on the following priorities:...

6. Further distributing and using state land...in a transparent and equitable manner, for development purposes that respond to the needs of the poor, disabled veterans, families of deceased soldiers and veterans who have genuine need to use the land, through the implementation of social land concessions...

128. In social protection reform, the Royal Government of the Fifth Legislature will focus on the following priorities:...

11 . Further implementing measures to distribute land through social land concessions and land grants to the poor, handicapped soldiers, and families of deceased soldiers and former combatants who are either landless or with limited land, in accordance with RGC's land reform policy.

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
<p>In rural areas provide them with legal and affordable access to land and resources</p>	<p>2003 Chapter 5. Types of Social Concession Land and Occupancy Conditions Article 16. The maximum size of social concession land granted for residential purposes is one thousand two hundred (1200) square meters, except in rural areas where land is available, the size of social concession may be increased up to three thousand six hundred (3600) square meters....</p> <p>Article 17. The maximum size of social concession land granted for family farming purposes is two (2) hectares, but for some areas the size of social concession land may be increased up to five (5) hectares based on the characteristics and potentiality of the land or the type of crop, and labor.</p> <p>Article 18.... After correctly complying with the criteria of the social land concession program for five (5) years the target land recipient has the right to ownership of the land and may request ownership title according to procedures determined in the instruction of the Minister of MLMUPC. If a target land recipient dies during the implementation of the social land concession program, the successors in the target land recipient's family may continue to implement the social land concession program to complete five (5) years and shall have the right to ownership of that land....</p> <p>Land Law 2001 Chapter 5 –Land Concessions Article 51 A land concession may not be gratuitously granted except for the concession responding to a social purpose given to poor families to establish a residence for themselves or to develop subsistence cultivation.</p> <p>Article 52 ...A land concession cannot establish ownership rights on the land provided for concession except for concessions responding to social purposes.</p>		
<p>Key element (3): in urban areas provide them with appropriate income sources</p>	<p>Sub Decree on Social Land Concessions No. 19 ANK/BK/ March 19, 2003 Chapter 5. Types of Social Concession Land and Occupancy Conditions Article 16. The maximum size of social concession land granted for residential</p>	<p>Partial equivalence</p> <p>The legal regime provides for making land, but not housing, available in urban areas in the context of social</p>	<p>Amend MEF Circular No. 006/2016 or issue an additional circular, to explicitly stipulate that, in cases of involuntary</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
and legal and affordable access to adequate housing	<p>purposes is one thousand two hundred (1200) square meters.... In appropriate cases, particularly in urban areas, social land concessions for residential purposes may granted in the form of co-ownership.</p> <p>Land Law 2001 Chapter 5 –Land Concessions Article 51 A land concession may not be gratuitously granted except for the concession responding to a social purpose given to poor families to establish a residence for themselves or to develop subsistence cultivation.</p> <p>Article 52 ...A land concession cannot establish ownership rights on the land provided for concession except for concessions responding to social purposes.</p>	land concessions, but there are no general requirements for providing urban dwellers with appropriate sources of income and legal and affordable access to housing in the context of involuntary resettlement.	resettlement, the resettlement plan must require providing urban dwellers with appropriate sources of income and legal and affordable access to housing.
Policy Principle 6: Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.			
Key element (1): Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement	No corresponding legal provision	No equivalence	Amend the Law on Expropriation 2010 and the Land Law 2001 to explicitly require a transparent, consistent, and equitable process for developing procedures for negotiated settlements in the context of expropriation of land.
Key element (2): Ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status	No corresponding legal provision	No equivalence	Amend the Law on Expropriation 2010, the Land Law 2001, and amend MEF Circular No. 006/2016 or issue an additional circular to provide guarantees that those people who enter into negotiated settlements in the context of expropriation and involuntary resettlement

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
			will maintain the same or better income and livelihood status.
Policy Principle 7: Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of nonland assets.			
	<p>Circular No. 2 Illegal Holding of State Land 2007 6. For illegal state land holder(s):... 6.2- For illegal state land holders who are poor families and landless or lack of land and disadvantaged person, they are not entitled for compensation but may receive preferential treatment in obtaining appropriate size of land for making their livelihood based on their actual situation....</p> <p>Sub Decree on Social Land Concessions No. 19 ANK/BK/ March 19, 2003 Chapter 1. General Provisions Article 2. The following terms have the meanings defined below: (a) "Social land concession" is a legal mechanism to transfer private state land for social purposes to the poor who lack land for residential and/or family farming purposes.</p> <p>Article 3. Social land concessions may be granted for one or more of the following social purposes:... 3. Provide land to resettle families who have been displaced resulting from public infrastructure development.</p> <p>Chapter 4. Necessary Requirements for Social Land Concession Planning Article 10.... No person may deny the right of participation in a social land concession program to head of family who is a female, a person with a disability... a veteran with a disability... or a demobilized soldier.</p> <p>Land Law 2001 Chapter 1 – Principles of Ownership Article 6 ...The State may also provide to natural persons or legal entities of Khmer nationality ownership over immovable property belonging to the State within the strict limits set forth in this law.</p>	Full equivalence	

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	<p>Chapter 2 – Public Ownership Article 17 ...vacant lands of the State private domain may be distributed to persons demonstrating need for land for social purposes...</p> <p>Article 18 The following are null and void and cannot be made legal in any form whatsoever:...</p> <ul style="list-style-type: none"> - any transformation of a land concession...except concessions that are in response to social purposes;... <p>Chapter 2 – Public Ownership</p> <p>Article 51 A land concession may not be gratuitously granted except for the concession responding to a social purpose given to poor families to establish a residence for themselves or to develop subsistence cultivation.</p> <p>Article 52 ...A land concession cannot establish ownership rights on the land provided for concession except for concessions responding to social purposes.</p>		
Policy Principle 8: Prepare a resettlement plan elaborating on displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.			
	<p>Circular on the Resettlement Implementation Procedure for Development Projects, No. 006 MEF, 2016</p> <p>A. Feasibility study of the development projects 2- However, the initial plan for resettlement work shall be developed by project implementing ministries/institutions assisted by project technical advisors or personal technical advisors of the projects. The initial plan shall be submitted to the Ministry of Economy and Finance through the Resettlement Department in order for it to be examined and approved before submitting it to financing development partners for further implementation in accordance with the procedures in force.</p> <p>B. Implementation of resettlement plan 8- After the detailed measurement survey is completely conducted and resettlement plan is updated, the Inter-Ministerial Resettlement Committee shall seek prior approval in principle from the Royal</p>	<p>Partial equivalence</p> <p>The Circular on the Resettlement Implementation Procedure for Development Projects 2016 requires a resettlement plan with a budget. The Sub Decree on Social Land Concessions 2003 requires a social land concession plan with a budget. The Circular on Temporary Urban Settlements 2010 requires an action plan with a timeframe for practical implementation.</p> <p>The legal regime does not, however,</p>	<p>Amend the Sub Decree on Social Land Concessions 2003, Circular on Temporary Urban Settlements 2010, and MEF Circular 2016, or issue an additional circular, to explicitly require, in the context of involuntary resettlement, a resettlement plan that specifies displaced persons' entitlements, an income and livelihood restoration strategy,</p>

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	<p>Government on the budget package for implementation of the resettlement plan.</p> <p>9- Any request for withdrawal of budget to be used as compensation or other allowances to the affected people by the development project shall be made in compliant with financial procedures in force...The working group of the Inter-Ministerial [Resettlement] Committee shall cooperate with the working group of the Resettlement Sub-Committees and the Ministry of Economy and Finance in providing the compensation or other allowances to the affected people.</p> <p>Circular No. 3 Temporary Urban Settlements 2010</p> <p>4. Solution finding ...After reaching an agreement of accepting any of the solutions such as relocation...the Working Group shall develop an action plan and to set up the actual timeframe for practical implementation and shall seek to obtain an approval from the Capital city/Provincial State Land Management Committee....</p> <p>5. Coordinated discussion in order to identify solution policies For temporary settlements which cannot be implemented with on-site upgrading and thus have to be relocated into new locations, shall develop practical plan before implementation and/or to assist as policies in order to facilitate relocation of the settlers. For on-site upgrading or relocation, the target beneficiary settlers may obtain:</p> <ol style="list-style-type: none"> 1. Usufruct right based on agreement; or 2. Ownership right after the beneficiary settlers have continuously occupied and lived on the approved location for at least 10 years, commencing from the date of agreed solution; or 3. Rented right in an agreed time frame with symbolic (token) renting fee. <p>Sub Decree on Social Land Concessions No. 19 ANK/BK/ March 19, 2003</p> <p>Chapter 4. Necessary Requirements for Social Land Concession Planning Article 9. The requirements for social land concession planning include:...</p> <ol style="list-style-type: none"> (a) A description of the land and a land use plan... (b) Information about the land identification, the ownership of the land and indicating whether the land is available for social land concessions 	<p>appear to contain a general requirement that resettlement plans specify displaced persons' entitlements, an income and livelihood restoration strategy, institutional arrangements, budget, monitoring and reporting framework, and time-bound implementation schedule.</p>	<p>institutional arrangements, budget, monitoring and reporting framework, and time-bound implementation schedule.</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	<p>or whether the land is suitable for the uses in the social land concession plan.</p> <p>(c) Detailed information about the selection of target land recipients, including</p> <ul style="list-style-type: none"> - Any preferences for vulnerable groups under article 11 of this sub-decree and - The means used for verifying that target land recipients meet the established eligibility and preference criteria. <p>(d) Detailed plans for the allocation of land to the target land recipients, including any special conditions for occupancy and use of the land.</p> <p>(e) Detailed information about the application process, including the place where applicants filed applications, the person who was responsible for publicizing the application process and the person who was responsible for posting the names of applicants, the place where the notices were posted and other administrative details of the application process.</p> <p>(f) An assessment of the availability of infrastructures necessary to implement the plan, including such things as roads, water, electricity, schools, markets, , health care center, and tools and equipment to develop the land, other services, information about how and when to prepare these physical infrastructures and to provide those public services.</p> <p>(g) An assessment of social and environmental impacts of the program and a description of appropriate actions....</p> <p>Chapter 7. Resources Article 29. The budget for the operation of the social land concession mechanism shall be in the budget package of the Ministry of LMUPC.</p> <p>Article 30. According to the unified budget system, the resource and budget of social land concession mechanism shall be generated from:</p> <ul style="list-style-type: none"> ▪ the national budget. ▪ financing from local and overseas sources or international donor organizations. 		
Policy Principle 9:	Disclose a draft resettlement plan, including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders. Disclose the final resettlement plan and its updates to affected persons and other stakeholders.		
Key element (1):	Circular No. 3 Temporary Urban Settlements 2010	Partial equivalence	Amend MEF Circular No.

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
Disclose a draft resettlement plan, before project appraisal, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders	4. Solution finding ... For any solution which has been agreed by the meeting, a public display shall be conducted in a period of 30 days in the respective temporary settlement, and in commune or Sangkat office as information for the population of the local community.....	The Circular on the Resettlement Implementation Procedure for Development Projects 2016 requires prior consultations on a resettlement plan, but does not require disclosing the draft plan. The only requirement for disclosure appears to be in the context of solutions to temporary urban settlements.	006/2016, or issue an additional circular, to explicitly require disclosing draft resettlement plans, before project appraisal, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders.
Key element (2): Disclose the final resettlement plan and its updates to affected persons and other stakeholders.	Sub Decree on Social Land Concessions No. 19 ANK/BK/ March 19, 2003 Chapter 2. Local Social Land Concession Programs Article 6. ...An approved social land concession plan shall be open to the public in the relevant commune/sangkat office (sala khum/sangkat) council and Provincial/Municipal Land Use and Allocation Committee office and the National Social Land Concession Committee during working hours. Article 8...An approved national social land concession plan shall be open to the public in the relevant commune/ sangkat office, Provincial/Municipal Land Use and Allocation Committee office, and the National Social Land Concession Committee, during working hours.	Partial equivalence The Circular on the Resettlement Implementation Procedure for Development Projects 2016 does not require disclosing the final resettlement plan. The only requirement for disclosure appears to be in the context of social land concessions, which may be used as a mechanism for resettlement.	Amend MEF Circular No. 006/2016, or issue an additional circular, to explicitly require disclosing final resettlement plans and their updates to affected persons and other stakeholders.
Policy Principle 10: Conceive and execute involuntary resettlement as part of a development project or programme. Include the full costs of resettlement in the presentation of project's costs and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation.			
Key element (1): Conceive and execute involuntary resettlement as part of a development project or programme	Law on Expropriation 2010 Chapter 2 General Principles Article 7: ...The expropriation can be carried out only if it is for implementing a project as set out in Article 5 [physical infrastructure] of this law. Sub-Decree No. 146 ANK/BK on Economic Land Concessions 2005 Chapter 3: Procedures for Initiating, Requesting and Granting Economic Land Concessions Part 1: Initiating Economic Land Concessions through Solicited Proposals Article 7	Partial equivalence The Law on Expropriation 2010 provides that expropriation can only be carried out in the context of a project, but the legal regime does not appear to contain a requirement that involuntary resettlement must be conceived and executed as part of a development project of programme.	Amend the Law on Expropriation 2010 and MEF Circular No. 006/2016, or issue an additional circular, to explicitly require that involuntary resettlement must be conceived and executed as part of a development project of programme.

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	<p>A Contracting Authority may initiate an economic land concession project by taking the following preparatory steps:...</p> <p>4. Arrange for the conduct of an initial...social impact assessment of the proposed economic land concession project.</p> <p>5. If the initial...social impact assessment indicates a medium or high degree of adverse impact, arrange for the conduct of a full...social impact assessment.</p> <p>EIA Sub-decree 1999 Chapter III EIA Is Needed for Proposed Project(s) Article 8: A Project Owner must apply to the MoE for reviewing their full report of EIA report and pre-feasibility study, in case a project tends to cause a serious impact to the...public welfare.</p>		
<p>Key element (2): Include the full costs of resettlement in the presentation of project's costs and benefits</p>	<p>Circular on the Resettlement Implementation Procedure for Development Projects, No. 006 MEF, 2016 B. Implementation of resettlement plan 8- After the detailed measurement survey is completely conducted and resettlement plan is updated, the Inter-Ministerial Resettlement Committee shall seek prior approval in principle from the Royal Government on the budget package for implementation of the resettlement plan.</p> <p>Sub Decree on Social Land Concessions No. 19 ANK/BK/ March 19, 2003 Chapter 6. Administration and Implementation Article 20. ...The National Social Land Concession Committee shall have the following duties and tasks: - Facilitate all means and budget for the operation of all levels of social land concession mechanisms.</p> <p>Chapter 7. Resources Article 29. The budget for the operation of the social land concession mechanism shall be in the budget package of the Ministry of LMUPC.</p>	<p>Partial equivalence</p> <p>The Circular on the Resettlement Implementation Procedure for Development Projects 2016 and the Sub Decree on Social Land Concessions 2003 require budgets for resettlement plans and for social land concession plans, but do not require a cost/benefit analysis.</p>	<p>Amend the Sub Decree on Social Land Concessions 2003 and MEF Circular No. 006/2016, or issue an additional circular, to require that resettlement plans and/or social land concession plans include a cost/benefit analysis that considers the full costs of resettlement.</p>
<p>Key element (3): For a project with significant involuntary</p>	<p>Sub Decree on Social Land Concessions No. 19 ANK/BK/ March 19, 2003 Chapter 1. General Provisions Article 2.</p>	<p>Partial equivalence</p> <p>The Sub Decree on Social Land Concessions 2003 provides that</p>	<p>Amend the Sub Decree on Social Land Concessions 2003 and MEF Circular No.</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
<p>resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation</p>	<p>The following terms have the meanings defined below:</p> <p>(a) "Social land concession" is a legal mechanism to transfer private state land for social purposes to the poor who lack land for residential and/or family farming purposes.</p> <p>Article 3. Social land concessions may be granted for one or more of the following social purposes:...</p> <p>3. Provide land to resettle families who have been displaced resulting from public infrastructure development.</p> <p>Chapter 3. National Social Land Concession Programs Article 7. A National Social Land Concession Program may be initiated by one or more concerned ministries or institutions in situations that are not suitable for a local social land concession program, in particular, in any of the following situations:...</p> <ul style="list-style-type: none"> ▪ Where there is a program to resettle large groups of families, such as urban squatters, or displaced persons.... <p>Land Law 2001 Chapter 5 –Land Concessions Article 51 A land concession may not be gratuitously granted except for the concession responding to a social purpose given to poor families to establish a residence for themselves or to develop subsistence cultivation.</p> <p>Article 52 ...A land concession cannot establish ownership rights on the land provided for concession except for concessions responding to social purposes.</p>	<p>social land concessions may be used to resettle families who have been displaced as a result of public infrastructure development, which may allow for treating involuntary resettlement separately from a development project.</p> <p>The Circular on the Resettlement Implementation Procedure for Development Projects 2016 addresses resettlement only in the context of development projects.</p>	<p>006/2016, or issue an additional circular, to explicitly stipulate that authorities must consider implementing involuntary resettlement as a stand-alone operation, separate from a development project.</p>
<p>Policy Principle 11: Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout project implementation.</p>			
<p>Key element (1): Pay compensation and provide other resettlement entitlements</p>	<p>Law on Expropriation 2010 Chapter 1 General Provisions Article 2: This law primarily aims to:...</p> <ul style="list-style-type: none"> - Ensure a fair and just compensation in advance... 	<p>Full equivalence</p>	

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before physical or economic displacement	<p>Article 4: Key terms used in this law are: Expropriation refers to confiscation of ownership of, with fair and just compensation in advance, immovable property or the real right to immovable property...</p> <p>Chapter 4 Expropriation Procedures Section 2: Expropriation Procedures Article 19: The expropriation of the ownership of immovable property and real right to immovable property can be exercised only if the Expropriation Committee has paid fair and just compensation to the property's owner and/or rightful owner in advance...</p> <p>Section 3: Compensation for Expropriation Article 28: The Expropriation Committee can accept the immovable property or the right to the immovable property after:...</p> <ul style="list-style-type: none"> - financial compensation has been paid... <p>Chapter 5 Transitional Control and Management of the Immovable Property Article 31: Unless there is another agreement or permission, the owner or the rightful owner may continue to occupy the immovable property for 1 (one) month after receiving from the Expropriation committee the full compensation paid...</p>		
Key element (2): Implement the resettlement plan under close supervision throughout project implementation	<p>Sub Decree on Social Land Concessions No. 19 ANK/BK/ March 19, 2003 Chapter 6. Administration and Implementation Article 26. The District Working Group shall have the following functions and duties:</p> <ol style="list-style-type: none"> 1. Carry out all the work of Provincial/Municipal Land Use and Allocation Committee at the district level. 2. Provide technical assistance to the commune councils to identify and classify land, to develop land use plans, to select target land recipients and to implement social land concession programs. 3. Ensure that the allocation of social concession land at the local level is efficient and transparent. <p>Sub-decree 62ANKR.BK/Jul20,99 on Organization and Functioning of the Ministry of Land Management, Urbanization and</p>	<p>Partial equivalence</p> <p>The legal regime requires supervision of land allocation and management, but does not explicitly require supervising the implementation of a resettlement plan.</p>	<p>Amend MEF Circular No. 006/2016, or issue an additional circular, to explicitly stipulate that authorities must supervise the implementation of the resettlement plan throughout project implementation.</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	<p>Construction Chapter 2: Mission and Structure Article 3: In order to implement its mission, the Ministry of Land Management, Urbanization and Construction has the following tasks: 1- With the mission in land management, the Ministry of Land Management, Urbanization and Construction shall:...</p> <ul style="list-style-type: none"> - pay attention to the sites of activities and public services to make sure that they are following land management policies and administrative deconcentration policies;... 		
<p>Policy Principle 12: Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.</p>			
<p>Key element (1): Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring</p>	<p>Circular on the Resettlement Implementation Procedure for Development Projects, No. 006 MEF, 2016 C. Post implementation of resettlement plan 4- ...Upon receipt of this circular, the Chief of Cabinet, the Secretaries-General, the Directors-General of all General Departments, and the Inspectors-General of the General Inspectorates under the supervision of the Ministry of Economy and Finance, as well as the he Inter-Ministerial Resettlement Committee and he Resettlement Sub-Committees shall effectively implement this circular and...shall report the outcome of implementation of which to the Ministry of Economy and Finance.</p> <p>Sub-Decree No. 146 ANK/BK on Economic Land Concessions 2005 Chapter 4: Management and Amendment of Concession Contract Article 25 The Contracting Authority shall be responsible for ensuring that a Concession Contract is enforced by establishing mechanisms and procedures for monitoring contract performance and for reporting on the management of the contract...</p> <p>Chapter 5: Administration and Implementation Mechanism Article 30 Contracting authorities have the following roles and duties:... Monitor Concession Contract performance;...</p> <p>Article 32 The Technical Secretariat has the duties to provide comments to the Contracting Authority:...</p>	<p>Full equivalence</p>	

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	<p>Monitor performance of economic land Concession Contracts;...</p> <p>Chapter 6: Review of Existing Economic Land Concessions Article 37 The...territorial authority that granted or signed an existing economic land concession contract...shall take the following review steps:...</p> <ul style="list-style-type: none"> ▪ ...continue to monitor the contract performance... <p>Sub Decree on Social Land Concessions No. 19 ANK/BK/ March 19, 2003 Chapter 2. Local Social Land Concession Programs Article 5. ...The commune council shall annually review the social land concession plan...</p> <p>Chapter 6. Administration and Implementation Article 20. ...The National Social Land Concession Committee shall have the following duties and tasks: - Monitor the granting of social land concessions and adjust policies and other provisions if necessary.... - Monitor the progress in the implementation of the use of social concession land....</p> <p>Article 22. This Secretariat General of National Social Land Concession Committee shall...have the following duties and tasks:...</p> <ul style="list-style-type: none"> ▪ Develop principles to monitor grants of social land concessions and to adjust policies and other provisions submitted to the National Social Land Concession Committee for review and approval.... ▪ Stimulate the monitoring and evaluate the implementation of national social land concession programs and prepare regular reports on the outcome and submit to the National Social Land Concession Committee.... <p>EIA Sub-decree 1999 Chapter 2: Institutional Responsibilities Article 3: The Ministry of Environment shall have the following responsibilities:...</p> <ul style="list-style-type: none"> b. follow up, monitor, and take appropriate measures to ensure a Project Sponsor will comply the Environmental Management Plan (EMP) during 		

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	<p>project construction, implementation, and closure as described in the approved EIA report.</p> <p>Chapter 3 Environmental Impact Assessment Requirements for the Proposed Projects Article 11: The Project's Owner must pay the service for...monitoring the project implementation.</p>		
Key element (2): Disclose monitoring reports	No corresponding legal provision	No equivalence	Amend MEF Circular No. 006/2016, or issue an additional circular, to explicitly stipulate that authorities must disclose reports on monitoring the implementation of resettlement plans.