

LEGAL ANALYSIS MATRIX
for Papua New Guinea Country Safeguard Systems

(A) <i>ADB Safeguard Policy Statement</i>	(B) <i>Corresponding Provisions in National Policy and Legal Instruments¹</i>	(C) <i>Extent of Equivalence² Review comments</i>	(D) <i>Recommendations</i>
<p>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.</p>			

¹ All text is direct citation from the official versions of the policy documents and legal instruments except where otherwise indicated by annotation. Highlighted text is used to indicate key terms that demonstrate extent of equivalence. Legally-binding provisions are cited first, followed by citations to non-legally-binding policies and guidelines.

² "Full Equivalence" denotes that the national policy documents and 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 policy documents and 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 policy provision or 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 policy documents and 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.

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments ¹	(C) Extent of Equivalence ² Review comments	(D) Recommendations
2	<p>EIA/EIS Section 6. CHARACTERISTICS OF THE RECEIVING ENVIRONMENT Social Environment This sub-section deals with the existing social structure and socio-economic data on the resource/land owners, Local Level Government, the Province and PNG as a whole....</p> <p>The outcome of the Social Impact Assessment process is the Social Impact Statement, which is included in this section of the Environmental Impact Statement that is submitted to DEC for assessment.</p> <p>Information provided in this sub-section shall include but not limited to the following details -</p> <ul style="list-style-type: none"> ▪ demographic information, ▪ information on existing infrastructure, ▪ information on public health issues (if applicable), ▪ information on present economic status of the project area, ▪ description of existing social services, ▪ details of archaeological, historical, cultural or religious features of the project area under consideration, etc. <p>EA Art. 1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS. ...(3) For the purpose of Section 53(1) of the Constitution –... (b) the purposes specified in Section 85(1), are hereby declared to be public purposes and further required for a reason that is reasonably justified in a democratic society that has a proper regard for the rights and dignity of mankind, that is so declared and so described for the purposes of Section 53 of the Constitution.</p> <p>EA Art. 78. INTERPRETATION. In this Part, unless the contrary intention appears, “permit” means a permit containing conditions that authorize the permit holder to – (a) dam a river or stream; or (b) divert water;...</p> <p>EA Art. 82. RIGHTS CONFERRED BY PERMIT RELATING TO WATER USE. Subject to any prescribed conditions or conditions endorsed on it, a permit confers on the holder for the purposes for which it was granted and in the area of land specified in the permit – (a) the exclusive right of the construction or protection of works, subject to the right of the Director or a person authorized by him to enter and</p>	<p>EA Part 7 establishes rights with respect to the use of water for hydropower and to the use of land for constructing works for the generation and distribution of hydropower.</p> <p>EA Art. 85 and the Land Act Art. 2 establish that generation and transmission of hydropower are public purposes for which the government may acquire land for these purposes, which in turn may require involuntary resettlement.</p> <p>The EA, with articles 4(d) and 51(1)(b), creates what amounts to an environmental and social impact assessment (ESIA). The ‘social’ aspect of that assessment is inconsistently provided for in the EA and its regulations and it does not explicitly reference involuntary resettlement.</p>	<p>To attain full equivalence: 1. Review and rationalize all references in the EA and its regulations to the social aspect of impact assessments as specified in the EIA/EIS.</p> <p>2. In particular, amend EA Art. 56 as follows: EA Art. 56. ACCEPTANCE OF ENVIRONMENTAL IMPACT STATEMENT. (1) Where the Director is satisfied that –... (b) all reasonable steps will be taken to minimise environmental <i>and social</i> harm which may result from the carrying out of the activity;...</p> <p>3. Develop more detailed guidelines on social impact assessment, including involuntary resettlement.</p> <p>As of December 2012</p>

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Key element (1): Avoid involuntary resettlement wherever possible	No directly corresponding policy provision or legal requirement. See Environmental Safeguards, Operational Principle 4, Key element (1).	No equivalence.	
Key element (2): Minimize involuntary resettlement by exploring project and design alternatives	No directly corresponding policy provision or legal requirement. See Environmental Safeguards, Policy Principle 3, Key elements (1)-(3).	No equivalence.	See the Recommendation under the Objectives for Involuntary Resettlement Safeguards (IRS).
Key element (3): Enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels	No corresponding policy provision or legal requirement.	No equivalence.	See the Recommendation under the Objectives for IRS.
Key element (4): Improve the standards of living of the displaced poor and other vulnerable groups.	No corresponding policy provision or legal requirement.	No equivalence.	See the Recommendation under the Objectives for IRS.

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<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>			
<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.</p>			
<p>Key element (1): Screen the project early on</p>	<p>No directly corresponding policy provision or legal requirement. See Environmental Safeguards, Policy Principle 1, Key element (1).</p>	<p>No equivalence.</p>	<p>See the Recommendation under the Objectives for IRS. Assuming that the EA is amended to clarify that the relationship of environmental impact assessment and social impact assessment, the EIA requirement for screening would apply.</p>
<p>Key element (2): Identify past, present, and future involuntary resettlement impacts and risks</p>	<p>No corresponding policy provision or legal requirement.</p>	<p>No equivalence.</p>	<p>See the Recommendation under the Objectives for IRS.</p>
<p>Key element (3): Determine the</p>	<p>No corresponding policy provision or legal requirement.</p>	<p>No equivalence.</p>	<p>See the Recommendation under the Objectives for IRS.</p>

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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>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.</p>			
Key element (1): Carry out meaningful consultations with affected persons, host communities, and concerned	No directly corresponding legal requirement. <u>Policy Document – Not legally binding</u> EIP Section 4.4.5 Participation by Landowners Electricity service providers have the scope to establish arrangements that seek participation from the landowners. The Government will facilitate all arrangements that are aimed at involving participation from the landowners in ventures with IPPs. Such participation can harness and draw the benefits from the industry to the landowners, and ascertain	See Environmental Safeguards, Policy Principle 8, all Key elements, in relation to all Key elements of Involuntary Resettlement, Policy Principle 2 In another sector, the Oil and Gas Act 1998 Art. 49(c) requires submission of a socio-economic impact study as	See the Recommendation under the Objectives for IRS.

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nongovernment organizations	appropriate level of their involvement in business partnerships for enhanced security and reliability of electricity services in the industry.	part of the environmental plan for a proposed project, before a development forum (Art. 50) can be held with people who will be affected by a petroleum project.	
<p>Key element (2):</p> <p>Inform all displaced persons of their entitlements and resettlement options</p>	<p>EA Art. 86. NOTICE TO LANDHOLDERS OF EXERCISE OF POWERS. (1) Subject to Section 120, where a person owns or is entitled to occupy land, another person shall not in relation to that land, exercise any of the powers conferred on him by this Part or by a permit unless he has given not less than 14 days' written notice to the first mentioned person, including where the land is occupied under a licence under an Act of the National Parliament, to the holder of that licence. (2) It is sufficient compliance with Subsection (1) where, in respect of customary land, written notice is given to the landowners and the Local-level Government body in the area where the land is situated.</p> <p>LA Art. 2. INTERPRETATION. (1) In this Act, unless the contrary intention appears—... “public purpose” means—... (o) the purposes of or connected with the generation or supply of electricity;</p> <p>LA Art. 12. COMPULSORY ACQUISITION. (1) The Minister may, on behalf of the State— (a) after the expiration of a period of two months after the service of a notice to treat, or of notices to treat under Section 13, in relation to any land;... by notice in the National Gazette, declare that the land, other than any interest in respect of which a notice to treat has been withdrawn, or any chattel, is acquired by compulsory process under this Act for a public</p>	<p>Partial equivalence. The LA Art. 14 provides that all interests in land are converted to a right to compensation on the date of acquisition. The LA (Art. 13(3)) provides that the Minister may provide particulars of the acquisition, without specifying that this includes information on entitlements and options.</p> <p>The statutory period for informing persons to be displaced by compulsory acquisition of their land is not less than 14 days (EA Art. 86) and not more than two months (LA Art. 12). Both Acts explicitly cover the specific issue of acquiring land for the purpose of generating and transmitting electricity. The EA is a more recent law than the LA and on that basis 14-day notice period could be interpreted to control.</p> <p>The EA does not require that people whose land is to be acquired and who</p>	<p>To achieve full equivalence:</p> <ol style="list-style-type: none"> 1. The EA and the LA should be amended to harmonize all provisions on compulsory acquisition of land, allowing for the maximum possible prior notice of compulsory acquisition and displacement. 2. See the Recommendation under the Objectives for IRS.

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	<p>purpose specified in the notice.</p> <p>(2) On the publication of a notice under Subsection (1), the land or chattel to which the notice applies is–</p> <p>(a) vested in the State; and</p> <p>(b) freed and discharged from all interests, trusts, restrictions, dedications, reservations, obligations, contracts, licences, charges and rates.</p> <p>LA Art. 13. NOTICE TO TREAT.</p> <p>(1) The Minister shall not acquire land by compulsory process under this Act unless he has first caused to be served on each of the owners of the land, or such of them as can, after diligent inquiry, be ascertained, a notice inviting the person on whom the notice is served to treat with the Minister for the sale or surrender to the Minister, on behalf of the State, of his interest in the land.</p> <p>(2) A person served with a notice to treat in respect of land shall, not later than two months after the service of the notice, provide the Minister with particulars of–</p> <p>(a) the interest claimed by him in the land; and</p> <p>(b) the amount for which he is agreeable to sell his interest in the land;...</p> <p>(3) On receipt of the particulars referred to in Subsection (2), the Minister may–</p> <p>(a) treat with the person providing the particulars for the acquisition of his interest by agreement; and</p> <p>(b) notwithstanding anything in this Act, enter into an agreement with that person for the acquisition.</p> <p>(4) The Minister may, by written notice to a person served with a notice to treat, withdraw the notice to treat.</p> <p>(5) Where the owner of an interest in land, who has provided the particulars referred to in Subsection (2), suffers loss by reason of the notice to treat having been given and withdrawn, the State is liable to pay to him such compensation as is determined by agreement between</p>	<p>are to be displaced must be informed of their entitlements and options.</p>	

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	<p>the owner and the Minister or, in the absence of agreement, by action as determined by a court of competent jurisdiction.</p> <p>LA Art. 14. CONVERSION OF INTERESTS INTO CLAIMS FOR COMPENSATION. (1) Subject to Subsection (2), the interest of every person in land or a chattel to which a notice of acquisition applies is, on the date of acquisition, converted into a right to compensation under this Act. (2) Where an easement, right, power, privilege or other interest in, over or in connection with land that did not previously exist as such is acquired, the interest of every person in the land is, on the date of acquisition, and to the extent to which the interest is affected by the acquisition, converted into a right to compensation under this Act.</p>		
<p>Key element (3):</p> <p>Ensure the participation of displaced persons in planning, implementation, and monitoring and evaluation of resettlement programmes</p>	<p>No corresponding policy provision or legal requirement.</p> <p><u>Policy Document – Not legally binding</u> EIP Section 4.4.5 Participation by Landowners Electricity service providers have the scope to establish arrangements that seek participation from the landowners. The Government will facilitate all arrangements that are aimed at involving participation from the landowners in ventures with IPPs. Such participation can harness and draw the benefits from the industry to the landowners, and ascertain appropriate level of their involvement in business partnerships for enhanced security and reliability of electricity services in the industry.</p>	<p>No equivalence.</p>	<p>See the Recommendation under the Objectives for IRS.</p>
<p>Key element (4):</p> <p>Ensure the participation in consultations of vulnerable</p>	<p>No corresponding policy provision or legal requirement.</p>	<p>No equivalence.</p>	<p>See the Recommendation under the Objectives for IRS.</p>

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groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land			
Key element (5): Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns	No corresponding policy provision or legal requirement.	No equivalence.	See the Recommendation under the Objectives for IRS.
Key element (6): Support the social and cultural institutions of displaced persons and their host population	No corresponding policy provision or legal requirement.	No equivalence.	See the Recommendation under the Objectives for IRS.
Key element (7):	No corresponding policy provision or legal requirement.	No equivalence.	See the Recommendation under

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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 .			the Objectives for IRS.
<p>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.</p>			
<p>Key element (1):</p> <p>Improve, or at least restore, the livelihoods of all displaced persons through land-based resettlement strategies when affected livelihoods are</p>	<p>EA Art. 85. ACQUISITION OF LAND.</p> <p>(1) The following are declared to be public purposes for purposes of Section 53(1)(protection from unjust deprivation of property) of the Constitution and of the Land Act –...</p> <p>(c) construction of works for the generation of hydro-electric power; and</p> <p>(d) conveyance of water or electricity; and...</p> <p>(f) release of contaminants from operations connected with purposes specified in this section....</p> <p>(3) Where land has been acquired for a purpose specified under Subsection (1) and has been made available to a permit holder for the purposes of his permit under this Act, the amount of compensation paid by the State in respect of the land is a debt due and payable by the</p>	<p>Partial equivalence.</p> <p>Neither the EA nor the LA stipulates that cash compensation must be at replacement value. Under both Acts, the amount of compensation is to be agreed/negotiated between the person/s with rights to the land and the Minister (LA) or the permit holder, or determined by the Director and/or the Council (EA).</p> <p>The Office of the State Solicitor</p>	<p>To achieve full equivalence:</p> <ol style="list-style-type: none"> 1. Amend the EA and the LA to harmonize all provisions on compulsory acquisition of land. 2. See the Recommendation under the Objectives for IRS.

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land based, where possible, or cash compensation at replacement value for land when the loss of land does not undermine livelihoods	<p>holder to the State.</p> <p>(4) Payment of the amount due under Subsection (3) on written demand being served on the permit holder is a condition applying to a permit for purposes of Section 72.</p> <p>EA Art. 87. COMPENSATION.</p> <p>(1) Subject to this section, the holder of a permit is liable to pay compensation to the owners and occupiers of, and any person with customary rights in, any private land in relation to their several interests, in respect of entry on the land, or occupation of the land by the holder.</p> <p>(2) Subject to this section, compensation shall be paid for –</p> <p>(a) the deprivation of the use and enjoyment of the surface of the land or any part of it, or of rights to water customarily associated with the land, except where there has been a reservation in favour of the State of the right to that use and enjoyment; and</p> <p>(b) damage to the surface of the land or any part of it or improvements on it, or to any flora or fauna, caused by the carrying on of operations under a permit; and</p> <p>(c) rights of way and easements; and</p> <p>(d) any damage consequential on the holder's use or occupation of the land, or use or control of water or a water source on or in the land.</p> <p>(3) Where private land, or improvements on it, adjoining or in the vicinity of land occupied under a permit, is or are damaged or depreciated in value –</p> <p>(a) by any operations carried on by or on behalf of the permit holder; or</p> <p>(b) by reason of a right of way acquired by the permit holder, the owners and occupiers of, and any person with customary rights in, that private land or those improvements shall be entitled in respect of their several interests to compensation for loss or damage sustained and the amount of compensation shall be ascertained in accordance with this section.</p> <p>(4) A permit holder may agree with any person entitled to compensation under this section the amount and form of compensation and the time</p>	<p>confirms that EA Art. 87(2)(d) adequately covers compensation for land, the subject of the activity, and for the damages to use or control of water or a water source on or in the land (the subject of the activity). However, the provision does not adequately cover damages to downstream river/water/soil/land as a result of the activity upstream.</p> <p>The ESA applies only in emergency situations.</p>	

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	<p>for payment.</p> <p>(5) An agreement under Subsection (4) shall be –</p> <p>(a) by instrument signed by the parties to it or their agents; and</p> <p>(b) lodged with the Director.</p> <p>(6) Where the permit holder and any person entitled to compensation under this section have not reached agreement on the amount and form of compensation and the time for payment, within 90 days of the permit holder giving notice in writing to that person seeking to open negotiations on these issues, either party may, by notice to the Director, apply to the Director to determine each of these matters.</p> <p>(7) The Director shall determine each matter referred to him under Subsection (6) within 90 days of the date of the notice from the party referring the matter, and in determining such matters, the Director may seek the advice of the Council in order to assist the Director to make a determination within the 90 day period.</p> <p>(8) Where the Director considers it impracticable or inexpedient to assess the amount of compensation to be paid in full satisfaction for the damage sustained by the claimant, the Director may make an order –</p> <p>(a) as to the compensation payable in respect of a specified period; and</p> <p>(b) in respect of the whole or a part of the total claim for compensation; and</p> <p>(c) as to the period and the manner in which any outstanding claim for compensation is to be determined.</p> <p>(9) The Director may, at any time, require that the person from whom compensation is sought gives such security as the Director thinks fit for payment of compensation for which that person may become liable before commencing or continuing, as the case may be, any operations under this Act.</p> <p>(10) Where, after the Director has determined an amount of compensation under this section, it is proved that further loss or damage, not being loss or damage in respect of which compensation has already been determined or ordered, has been sustained, the Director may, with the advice of the Council if the Director so requires,</p>		

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	<p>determine the further loss or damage and order that further compensation be paid by the holder of the permit to the person entitled to the further compensation.</p> <p>(11) Where the Director has determined the amount of compensation or further compensation under this section, payment of the amount is a condition applying to a permit for the purposes of Section 72.</p> <p>(12) In determining the amount of compensation payable under this section, the Director may –</p> <p>(a) consider and seek an opinion from the Council as to the detriment to any beneficial value in relation to the environment or a part of the environment; and</p> <p>(b) take into consideration the amount of compensation that the owner or occupiers of, or the person interested in, the land or any of them or their predecessors in title has or have already received for the damage or loss for which compensation is being determined and deduct that amount from the amount to which they or any of them respectively would otherwise be entitled.</p> <p>(13) Where either party is aggrieved by a determination of the Director, they may appeal to the National Court.</p> <p>(14) A person, who fails to pay the compensation within the time determined in accordance with Subsection (8), is guilty of an offence.</p> <p>Land Act 1996 (LA) Art. 25. AGREEMENT BEFORE ACQUISITION AS TO COMPENSATION.</p> <p>(1) The Minister may, on behalf of the State, enter into an agreement with the owner of land as to the amount of compensation to which the owner will be entitled if the land is acquired by compulsory process under this Act within a time specified in the agreement.</p> <p>(2) If the land is acquired by compulsory process under this Act–</p> <p>(a) within the time specified in the agreement; and</p> <p>(b) while the owner who made the agreement is still the owner of the land,</p>		

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	<p>the compensation payable to him in respect of the acquisition shall be deemed to have been determined by agreement at the amount specified in the agreement.</p> <p>LA Art. 26. AGREEMENT AFTER ACQUISITION AS TO COMPENSATION. Where a claim for compensation is accepted under Section 21, the amount of compensation to be paid may be determined by agreement between the Minister and the claimant.</p> <p>Essential Services Act 2002 (ESA) Art. 1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS. ... (4) Insofar as this Act involves a compulsory taking of possession of property or a compulsory acquisition of an interest in or right over property within the meaning of Section 53 of the Constitution – (a) the purposes and reasons for each such taking and acquisition are declared and described to be –... and each of those purposes and reasons is hereby also declared to be described as – (iii) a public purpose;... for the purposes of Section 53 of the Constitution and for the purposes of any other relevant law; and (b) for the purposes of Section 53(2) of the Constitution, just compensation will be made on just terms for the compulsory taking of possession of property, in accordance with the terms set out in Section 8 and shall constitute compensation procured (and accordingly made) by, and made on behalf of, the State in connection with each such taking and acquisition.</p> <p>Underlying Law Act 2000 (ULA) Art. 10. REMEDIES. In a proceeding before a court, when the remedy sought is based on the underlying law, the court may grant any remedies that are available under: (a) a source of the underlying law; or (b) a formulated rule of the underlying law.</p>		

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	<p>Policy Document – not legally binding EIP Section 4.2.1 Regulation on Use of Indigenous Resources for Electricity Generation Ownership of indigenous resources that are exploited and utilized for electricity generation lies with the State as well as the local indigenous people. These resources include land, water, geothermal potential, ocean tidal and current potentials, natural gas and other primary sources of energy that are sourced and extracted from within PNG's national boundaries and used. The State would be required to develop appropriate regulatory instruments to determine levies and taxes for the access to and use of these resources or establish alternative arrangements such as through purchases for the transfer of their ownership or payments for the lease of these resources.</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>LA Art. 14. CONVERSION OF INTERESTS INTO CLAIMS FOR COMPENSATION. (1) Subject to Subsection (2), the interest of every person in land or a chattel to which a notice of acquisition applies is, on the date of acquisition, converted into a right to compensation under this Act.</p> <p>LA Art. 25. AGREEMENT BEFORE ACQUISITION AS TO COMPENSATION. (1) The Minister may, on behalf of the State, enter into an agreement with the owner of land as to the amount of compensation to which the owner will be entitled if the land is acquired by compulsory process under this Act within a time specified in the agreement.</p> <p>LA Art. 26. AGREEMENT AFTER ACQUISITION AS TO COMPENSATION. Where a claim for compensation is accepted under Section 21, the amount of compensation to be paid may be determined by agreement</p>	<p>Partial equivalence. The amount of compensation is subject to agreement between the State and the land owner. Neither the LA nor the EA stipulates that replacement of assets must be at equal or higher value.</p>	<p>To achieve full equivalence: 1. Amend the EA and the LA to harmonize all provisions on compulsory acquisition of land. 2. See the Recommendation under the Objectives for IRS.</p>

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	between the Minister and the claimant.		
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	No corresponding policy provision or legal requirement.	No equivalence.	See the Recommendation under the Objectives for IRS.
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	Policy Document – Not legally binding NSP 2010-2050 Section 3.1.2 Based on the development analysis over the last three decades and following the comprehensive district consultations, our people believe that the best way to achieve the vision is by: <i>“Creating opportunities for personal and national advancement through smart innovative ideas, quality services plus fair and equitable distribution of benefits.”</i>	No equivalence. At the policy level, the NSP articulates the results of citizen consultations which call for benefit sharing. There are no regulatory provisions on benefit sharing. In another sector, the Oil & Gas Act 1998 (Art. 50) provides for “development agreements” to be negotiated among project area landowners to proportionally share benefits resulting from a project (Arts. 170 and 171) and among local governments in proportion to the number of project area landowners receiving benefits under Arts. 170-171	See the Recommendation under the Objectives for IRS. The energy/hydropower sector could provide for agreements similar to those used in the petroleum and mining sectors, which would maintain consistency with established national practice.

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		<p>and who reside within the jurisdictions of local-level governments (Art. 172).</p> <p>In yet another sector, the Mining Act 1992 provides for “compensation agreements” (Art. 156). The Office of the State Solicitor confirms that these compensation agreements in practice include benefit-sharing arrangements.</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 secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production</p>	<p>Policy Document – Not legally binding PNG DSP Section 1.7 Impacts of sectoral strategies It is clear from the national income and employment impacts in tables 1.1 and 1.2 that the key platforms for the future prosperity of PNG will be...the implementation of land reforms that will empower landowners to make the most of their land. It is important to note that the results for many other sectors, for example agriculture and tourism, are premised on the success of law and order and land reforms.</p>	<p>No equivalence. At the policy level, the PNG DSP states generally that land reforms must be implemented.</p>	<p>To achieve full equivalence: 1. In implementing land reforms, include provisions to secure tenure to relocation land for displaced persons. 2. See the Recommendation under the Objectives for IRS.</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
opportunities, integration of resettled persons economically and socially into their host communities, and extension of project benefits to host communities			
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	No corresponding policy provision or legal requirement.	No equivalence.	See the Recommendation under the Objectives for IRS.
Key element (3): Provide physically and	No corresponding policy provision or legal requirement.	No equivalence. In another sector, the Oil and Gas Act 1998 provides for development	See the Recommendation under the Objectives for IRS.

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economically displaced persons with civic infrastructure and community services		<p>agreements (Art. 50), the terms of which are to be negotiated by people who will be affected by a petroleum project. Such agreements could presumably include arrangements for civic infrastructure and community services.</p> <p>In yet another sector, Articles 154-160 of the Mining Act 1992, which provide generally for compensation agreements, could be interpreted to include in-kind compensation in the form of civic infrastructure and community services.</p>	The energy/hydropower sector could provide for agreements similar to those used in the petroleum and mining sectors, which would maintain consistency with established national practice.
<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 affordable access to adequate housing.</p>			
<p>Key element (1):</p> <p>Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national</p>	<p>No corresponding policy provision or legal requirement.</p>	<p>No equivalence.</p>	<p>See the Recommendation under the Objectives for IRS.</p>

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minimum standards			
Key element (2): In rural areas provide them with legal and affordable access to land and resources	Policy Document – Not legally binding PNG DSP Section 1.7 Impacts of sectoral strategies It is clear from the national income and employment impacts in tables 1.1 and 1.2 that the key platforms for the future prosperity of PNG will be...the implementation of land reforms that will empower landowners to make the most of their land. It is important to note that the results for many other sectors, for example agriculture and tourism, are premised on the success of law and order and land reforms .	No equivalence. At the policy level, the PNG DSP states generally that land reforms must be implemented.	To achieve full equivalence: 1. In implementing land reforms, include provisions to secure for displaced persons legal and affordable access to land and resources. 2. See the Recommendation under the Objectives for IRS.
Key element (3): in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing	No corresponding policy provision or legal requirement.	No equivalence.	See the Recommendation under the Objectives for IRS.
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	No corresponding policy provision or legal requirement.	No equivalence. It was not possible to ascertain whether there are procedures under	To achieve full equivalence: 1. Amend the EA and the

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transparent, consistent, and equitable manner if land acquisition is through negotiated settlement		the LA for negotiating land acquisition settlements.	LA to harmonize all provisions on compulsory acquisition of land. 2. See the Recommendation under the Objectives for IRS.
Key element (2): Ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status	No corresponding policy provision or legal requirement.	No equivalence.	To achieve full equivalence: 1. Amend the EA and the LA to harmonize all provisions on compulsory acquisition of land. 2. See the Recommendation under the Objectives for IRS.
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.			
	No corresponding policy provision or legal requirement.	No equivalence.	See the Recommendation under the Objectives for IRS.
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.			
	No corresponding policy provision or legal requirement.	No equivalence.	See the Recommendation under the Objectives for IRS.

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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): 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	No corresponding policy provision or legal requirement.	No equivalence.	See the Recommendation under the Objectives for IRS.
Key element (2): Disclose the final resettlement plan and its updates to affected persons and other stakeholders.	No corresponding policy provision or legal requirement.	No equivalence.	See the Recommendation under the Objectives for IRS.
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.			

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Key element (1): Conceive and execute involuntary resettlement as part of a development project or programme	No corresponding policy provision or legal requirement.	No equivalence.	See the Recommendation under the Objectives for IRS.
Key element (2): Include the full costs of resettlement in the presentation of project's costs and benefits	No corresponding policy provision or legal requirement.	No equivalence.	See the Recommendation under the Objectives for IRS.
Key element (3): For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation	No corresponding policy provision or legal requirement.	No equivalence.	See the Recommendation under the Objectives for IRS.

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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.			
Key element (1): Pay compensation and provide other resettlement entitlements before physical or economic displacement	EA Art. 87. COMPENSATION. ... (4) A permit holder may agree with any person entitled to compensation under this section the amount and form of compensation and the time for payment. LA Art. 25. AGREEMENT BEFORE ACQUISITION AS TO COMPENSATION. (1) The Minister may, on behalf of the State, enter into an agreement with the owner of land as to the amount of compensation to which the owner will be entitled if the land is acquired by compulsory process under this Act within a time specified in the agreement. LA Art. 26. AGREEMENT AFTER ACQUISITION AS TO COMPENSATION. Where a claim for compensation is accepted under Section 21, the amount of compensation to be paid may be determined by agreement between the Minister and the claimant.	Partial equivalence. The EA provides that the time period for paying compensation is to be determined by agreement between the permit holder and the person entitled to compensation. The LA provides that compensation may be paid before or after acquisition, but does not specify whether displacement occurs at the time of acquisition.	See the Recommendation under the Objectives for IRS.
Key element (2): Implement the resettlement plan under close supervision throughout project implementation	No corresponding policy provision or legal requirement.	No equivalence.	
Policy Principle 12: Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the			

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resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.			
<p>Key element (1):</p> <p>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>EIA/EIS Section 8. ENVIRONMENTAL MANAGEMENT, MONITORING AND REPORTING</p> <p>Sufficient information on this section of the Environmental Impact Statement should be provided to enable DEC to anticipate possible environmental management, monitoring and reporting requirements for an Environment Permit.</p> <p>Information listed should reflect the proponent's environmental policy (environment management system) and the translation of that policy to meet the requirements under this Section and Section 7 (POTENTIAL IMPACTS OF PROPOSAL) during different stages in the project life, from construction to decommissioning and closure.</p> <p>Information detailed in this section shall include but not limited to the following -...</p> <ul style="list-style-type: none"> ▪ information on socio-economic management and monitoring strategy,... 	<p>Partial equivalence.</p> <p>Section 8 of the EIA/EIS guideline specifies that information on a socio-economic management and monitoring strategy must be included in an environmental impact statement. See the comments for Policy Principle 7 Key element (3).</p>	<p>To achieve full equivalence, amend EA Art. 66 to as recommended for Operational Principle 4, Key element (3).</p>
<p>Key element (2):</p> <p>Disclose monitoring reports</p>	<p>EA Art. 131. REGISTER.</p> <p>(1) The Director shall keep a register containing a copy of all notifications, applications, decisions and approvals taken under this Act including but not limited to -...</p> <p>(p) each monitoring and management report submitted by a permit holder under the conditions of a permit; ...</p> <p>(2) The register shall be made available for inspection by any person at all reasonable times.</p>	<p>Full equivalence.</p> <p>Access to monitoring reports is subject to payment of fees.</p>	

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	(3) Any person may be entitled to search for, request and obtain copies of any entry in the register subject to payment of fees fixed by the Director under Section 100.		

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