

**Comparative Analysis of Vanuatu’s Legal Framework and Environment Safeguards in the ADB Safeguard Policy Statement**

<b>(A) ADB Safeguard Policy Statement</b>	<b>(B) Corresponding Legal Provisions<sup>1</sup></b>	<b>(C) Extent of Equivalence<sup>2</sup></b>	<b>(D) Recommended Gap-filling Measures to Attain Full Equivalence</b>
<b>Environmental Safeguards Objectives: To ensure the environmental soundness and sustainability of projects and to support the integration of environmental considerations into the project decision-making process</b>			
<b>Key Element (1)</b> Ensure the environmental soundness and sustainability of projects	<b>Environmental Protection and Conservation Act 2010 (EPCA 2010)</b> 12. Activities that are subject to an EIA (1) All projects, proposals or development activities that: (a) cause or are likely to cause significant environmental, social and/or custom impacts; or (b) cause impacts relating to the matters listed in subsection (2); are subject to the EIA provisions of this Part.	<b>Full Equivalence.</b>	None required
<b>Key Element (2)</b> Support the integration of environmental considerations into the project decision-making process	<b>EPCA 2010</b> 12A. Foreshore development consents (1) A person who has obtained the written consent of the Minister responsible for town and country planning, to undertake the development on the foreshore of the coast of any island...must not commence any such development unless it is approved under the EIA provisions of this Act.  22. Review of EIA (1) Within 30 days after receiving the EIA report... the Director must review the report and make a recommendation on the project, proposal or development activity to the Minister. (2) The Director’s recommendation must include any draft terms and conditions by which the application for the project, proposal or development activity can proceed.	<b>Full Equivalence.</b>	None required

<sup>1</sup> All in Column B text is direct citation from the official versions of the legal instruments. Citations to non-legally-binding policies and guidelines are in footnotes to recommendations in Column D. In this analysis, the words “shall” and “must” are interpreted to mean that an action is mandatory; the word “may” is interpreted to mean that an action is discretionary.

<sup>2</sup> “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.

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	<p>23. Decision on application (1) The Minister must consider the Director's recommendation and...make a decision on the application for the project, proposal or development activity.</p> <p>27. Director may determine alternate process (1) If the Director considers that an EIA is not appropriate in the circumstances, an alternate agreed process may be established consistent with the regulations.</p> <p><b>Quarry Act 2013</b> 19 Issue of quarry permit ... (4) In addition to subsection (3), the holder of an aggregate prospecting permit must submit with the application all of the following information gathered during the prospecting phase: ... (j) an environment management plan; ...</p> <p><b>Forestry Regulations 2004</b> Second Schedule 2. Environmental Impact Assessment (Directions: The preparation of an Environmental Impact Assessment (EIA)...will be required before a Forestry Leases that will involve major new logging and reforestation programs may operate.) (1) If this Forestry Lease requires a reforestation program covering more than 100 hectares per year, the Lessee must prepare an Environmental Impact Assessment and submit it to the Director of Forests and the Lessor before the commencement of the establishment, maintenance or harvest of timber from a crop of trees under this Lease. (2) The Environmental Impact Assessment must be conducted by specialists approved by the Director of Forests in consultation with the Environment Unit in the Ministry of Lands, Geology and Mines and prepared according to the guidelines and standards specified by the Environment Unit.</p> <p><b>Petroleum (Exploration and Production) Act 1993</b> 30. (1) A petroleum production licence shall not be granted to an</p>		

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	<p>applicant - (a) unless - (i) the proposals of the applicant take proper account of environmental...factors;...</p> <p><b>Petroleum Regulations 1997</b> 6. Applying for petroleum prospecting licence (2) An application for the grant of a licence must be accompanied by:.... (c) a statement of any adverse effects which the proposed operations would be likely to have on the environment; (d) proposals for controlling or eliminating any significant environmental effect of the operations;...</p> <p>17. Application for petroleum production licence (2) The application must be accompanied by:.... (e) a proposed program of production and processing operations which includes the following details:.... (vii) a statement of any adverse effect which the carrying out of operations would be likely to have on the environment and proposals for controlling or eliminating any significant effect;...</p>		
<b>Scope and Triggers: Environmental safeguards are triggered if a project is likely to have potential environmental risks and impacts.</b>			
	<p><b>EPCA 2010</b> 12. Activities that are subject to an EIA (2) Without limiting subsection (1), all projects, proposals or development activities that will do or are likely to do all or any of the following are subject to the EIA provisions of this Part: (a) affect coastal dynamics or result in coastal erosion; (b) result in the pollution of water resources; (c) affect any protected, rare, threatened or endangered species, its habitat or nesting grounds; (d) result in the contamination of land; (e) endanger public health; (f) affect important custom resources; (g) affect protected or proposed protected areas; (h) affect air quality; (i) result in the unsustainable use of renewable resources; (j) result in the introduction of foreign organisms and species; (k) result in any other activity prescribed by regulation.</p>	<p><b>Full Equivalence.</b></p>	<p>None required</p>

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	<p>13. Activities not subject to an EIA The following projects, proposals or development activities are exempt from the requirements of this Part:</p> <ul style="list-style-type: none"> <li>(a) the construction of any single family residential building in an approved residential development area, however, such construction must be at least 30 metres from any river, stream, or from the line of mean high water spring tide of the sea;</li> <li>(b) any additions to an existing residential dwelling, being additions that are used only for residential purposes and are at least 30 metres from any river, stream, or from the line of mean high water spring tide;</li> <li>(c) the construction of traditional or custom structures fabricated from traditional materials, however, any natural rock, sand, coral, rubble or gravel that is used must not be taken from within 20 metres of the line of mean high water spring tide;</li> <li>(d) emergency action to protect the lives and property of people where there is not enough time to follow the requirements of this Act;</li> <li>(e) any other activity prescribed by regulation.</li> </ul> <p>14. Preliminary environmental assessment of applications ... (2) Upon receiving an application under subsection (1) the Director is to undertake a preliminary environmental assessment (PEA) of that project, proposal or development activity, in order to screen the application and determine if there is a need for an EIA for the project, proposal or development activity....</p> <p>(4) In determining whether an EIA is required for a project, proposal or development activity, the Director is to consider:</p> <ul style="list-style-type: none"> <li>(a) whether the project, proposal or development activity is likely to cause any environmental, social or custom impact; and</li> <li>(b) the significance of any identified impact; and</li> <li>(c) whether any proposed actions are likely to effectively mitigate, minimise, reduce or eliminate any identified significant impact; and</li> <li>(d) such other matters as the Director considers necessary or appropriate in the circumstances, or as required under this Act or prescribed by regulations.</li> </ul>		

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	<p><b>Environmental Impact Assessment Regulations 2011 as amended in 2012 (EIA Regulations 2012)</b> Schedule 1 Activities Requiring Preliminary Environmental Assessment</p> <ul style="list-style-type: none"> <li>(1) Foreshore developments...</li> <li>(2) Tourism-related developments...</li> <li>(3) Mining, quarrying and logging activities...</li> <li>(4) Clearing of tress, bushes and natural vegetation over areas of more than 10 hectares.</li> <li>(5) Industrial development...</li> <li>(6) Retail and wholesale developments...</li> <li>(7) Commercial aquaculture and agriculture activities...</li> <li>(8) Transportation and telecommunication facilities...</li> <li>(9) Energy generation facilities and other infrastructure services...</li> <li>(10) Waste disposal facilities...</li> <li>(11) Sub-division developments.</li> <li>(12) Permanent health facilities and medical centres.</li> <li>(13) Recreational or leisure facilities...</li> <li>(14) Churches or other places of worship.</li> <li>(15) Any development impacting a water source...</li> <li>(16) Granting of negotiator' certificate to negotiate the leasing of land for any of the above purposes.</li> <li>(17) Any other development as the Director considers appropriate.</li> </ul>		
<p><b>Policy Principle 1:</b> Use a screening process for each proposed project, as early as possible, to determine the appropriate extent and type of environmental assessment so that appropriate studies are undertaken commensurate with the significance of potential impacts and risks.</p>			
<p><b>Key element (1)</b> Screen as early as possible</p>	<p><b>EPCA 2010</b> 14. Preliminary environmental assessment of applications ... (2) Upon receiving an application under subsection (1) the Director is to undertake a preliminary environmental assessment (PEA) of that project, proposal or development activity, in order to screen the application and determine if there is a need for an EIA for the project, proposal or development activity.</p> <p><b>EIA Regulations 2012</b> 3 Preliminary environmental assessment application (l) An application for a PEA must: (a) be submitted by the project proponent to the Director...</p>	<p><b>Full Equivalence.</b></p>	

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	<p><b>Petroleum Regulations 1997</b></p> <p>71. When must a drilling application be made? A drilling application must be made: (a) at least 3 months before the proposed start of drilling if it is to take place in an environmentally sensitive area;...</p>		
<p><b>Key element (2)</b> Determine the appropriate extent and type of environmental assessment so that appropriate studies are undertaken commensurate with the significance of potential impacts and risks.</p>	<p><b>EPCA 2010</b></p> <p>19. Terms of reference for EIA (1) The Director must develop a terms of reference for any work that is to be undertaken for an EIA, including a description of the scope of work required. (2) In developing the terms of reference, the Director must give special consideration to the need for consultation, participation and involvement of custom landowners, chiefs and other interested parties, and may consult with the National Council of Chiefs for that purpose. (3) The Director must refer the terms of reference for the EIA to the project proponent for written comment within 15 days or such longer period as the Director specifies. (4) Within 30 days after receiving any written comments from the project proponent, the Director must make such revisions as are considered appropriate, and issue the final written terms of reference for the EIA to the project proponent. A copy of the terms of reference must be lodged in the Environmental Registry at the same time...</p>	<p><b>Full Equivalence.</b></p>	<p>None required</p>
<p><b>Policy Principle 2:</b> Conduct an environmental assessment for each proposed project to identify potential direct, indirect, cumulative, and induced impacts and risks to physical, biological, socioeconomic (including impacts on livelihood through environmental media, health and safety, vulnerable groups, and gender issues), and physical cultural resources in the context of the project's area of influence. Assess potential trans-boundary and global impacts, including climate change. Use strategic environmental assessment where appropriate.</p>			
<p><b>Key element (1):</b> Identify indirect as well as direct impacts</p>	<p><b>EIA Regulations 2012</b></p> <p>8 Contents of EIA Report (1) An EIA report must, to the extent appropriate, include:... (f) a description of the possible environmental and resource management impacts of the project, proposal or development activity, including any pollution or waste that may be generated, and impacts occurring during construction, operation, decommissioning, and abandonment phases of the project, proposal or development activity;...</p>	<p><b>Partial Equivalence.</b></p> <p>The EIA Regulations 2012 do not use the term 'direct impacts', but require assessment of types of impacts that are direct. The Regulations do not require assessment of indirect impacts.</p>	<p>Amend the EIA Regulations 2012 to require assessment of indirect impacts.</p>
<p><b>Key element (2)</b> Identify cumulative</p>	<p><b>EPCA 2010</b></p> <p>2. Interpretation In this Act, unless the contrary intention appears:</p>	<p><b>Full Equivalence.</b></p>	<p>None required</p>

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impacts	<p>“significant environmental impact” in relation to a project, proposal or development activity means an impact on the environment, either in the context of the setting of the proposed or in the context of the intensity of the proposed’s effect on the environment, and includes, but is not limited to:...</p> <p>(f) the potential for cumulative environmental impacts;...</p> <p><b>EIA Regulations 2012</b> 7 Preparation of EIA Report (2) If it appears that any aspect of a project, proposal or development activity, either individually or cumulatively, may cause a significant impact on the environment, these must be dealt with in the EIA report.</p>		
<b>Key element (3)</b> Identify induced impacts <sup>3</sup>	No corresponding legal provision.	<b>No Equivalence.</b>	Amend the EIA Regulations 2012 to require assessment of induced impacts.
<b>Key element (4)</b> Identify physical impacts	<p><b>EIA Regulations 2012</b> 8 Contents of EIA Report (1) An EIA report must, to the extent appropriate, include:...</p> <p>(f) a description of the possible environmental and resource management impacts of the project, proposal or development activity, including any pollution or waste that may be generated, and impacts occurring during construction, operation, decommissioning, and abandonment phases of the project, proposal or development activity;...</p>	<p><b>Partial Equivalence.</b></p> <p>The EIA Regulations 2012 do not use the term ‘physical impacts’, but require assessment of types of impacts that may be described as physical.</p>	Amend the EIA Regulations 2012 to explicitly require assessment of physical impacts.
<b>Key element (5)</b> Identify biological impacts	No corresponding legal provision.	<b>No Equivalence.</b>	Amend the EIA Regulations 2012 to require assessment of biological impacts.
<b>Key element (6)</b> Identify socioeconomic impacts (including on livelihood through environmental	<p><b>EPCA 2010</b> 2. Interpretation In this Act, unless the contrary intention appears: “significant environmental impact” in relation to a project, proposal or development activity means an impact on the environment, either in the context of the setting of the proposed or in the context of the intensity of the proposed’s effect on the environment, and includes, but is not limited to:</p>	<p><b>Partial Equivalence.</b></p> <p>The EIA Regulations 2012 refer to social-cultural impacts, and do not explicitly require assessment of economic impacts, impacts on vulnerable groups, and gender issues.</p>	Amend the EIA Regulations 2012 to explicitly require assessment of gender issues as well as economic and social impacts on vulnerable groups.

<sup>3</sup> ADB defines induced impacts as adverse and/or beneficial impacts on areas and communities from unintended but predictable developments caused by a project, which may occur later or at a different location.

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health and safety, vulnerable groups, and gender issues)	(a) the degree to which public health and safety is affected;...  <b>EIA Regulations 2012</b> 7 Preparation of EIA Report (l) An EIA report on a project, proposal or development activity must: (a) be a comprehensive study report of the potential...social-cultural impacts of the project, proposal or development activity; (b) identify the potential impact of the project, proposal or development activity on the surrounding...population...		
<b>Key element (7)</b> Identify impacts on physical cultural resources	<b>EPCA 2010</b> 2. Interpretation In this Act, unless the contrary intention appears: "significant environmental impact" in relation to a project, proposal or development activity means an impact on the environment, either in the context of the setting of the proposed or in the context of the intensity of the proposed's [sic] effect on the environment, and includes, but is not limited to:... (h) the degree to which a cultural, traditional...or historic resource may be threatened;...	<b>Partial Equivalence.</b>  The ECPA 2010 includes cultural and historic resources in its definition of 'significant environmental impact', but the EIA Regulations 2012 do not require assessment of impacts on physical cultural resources.	Amend the EIA Regulations 2012 to require assessment of impacts on physical cultural resources.
<b>Key element (8)</b> Identify impacts in the context of the project's area of influence	<b>EIA Regulations 2012</b> 8 Contents of EIA Report (1) An EIA report must, to the extent appropriate, include:... (e) a description of the environmental setting of the site of the proposal, including a statement of environmental resources and conditions in the area before the implementation of the project, proposal or development activity, and a projection or estimation of changed environmental circumstances that may occur as a result of the project, proposal or development activity;...	<b>Partial Equivalence.</b>  The EIA Regulations 2012 require describing the proposed project site and environmental resources and conditions in the area before the implementation of the project. The Regulations do not define 'area' and it is not clear whether 'the area' means the proposed project's area of influence.	Amend the EIA Regulations 2012 to require an EIA to explicitly define the proposed project's area of influence and assess impacts in the context of that area of influence.
<b>Key element (9)</b> Assess potential trans-boundary impacts	No corresponding legal provision.	<b>Irrelevant in the context of Vanuatu.</b>	None required
<b>Key element (10)</b> Assess potential global impacts,	<b>Pollution (Control) Act 2013</b> 2 Application of the precautionary principle ...(3) Any decision making made under the terms of this Act must be guided by consideration of climate change adaptation and	<b>Full Equivalence.</b>	None required



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including climate change	mitigation issues.  <b>EPCA 2010</b> 2. Interpretation In this Act, unless the contrary intention appears: “significant environmental impact” in relation to a project, proposal or development activity means an impact on the environment, either in the context of the setting of the proposed or in the context of the intensity of the proposed’s effect on the environment, and includes, but is not limited to:… (l) the degree to which the adaptation to, and mitigation of climate change is affected;…  5A Application of the precautionary principle …(3) Any decision making made under the terms of this Act must be guided by consideration of climate change adaptation and mitigation issues.		
<b>Key element (11)</b> Use strategic environmental assessment where appropriate	No corresponding legal provision.	<b>No Equivalence.</b>	Amend the EPCA 2010 to require strategic environmental assessment where appropriate.
<b>Policy Principle 3.</b> Examine alternatives to the project’s location, design, technology, and components and their potential environmental and social impacts and document the rationale for selecting the particular alternative proposed. Also consider the no project alternative.			
<b>Key element (1)</b> Examine alternatives to the project’s location, design, technology, and components and their potential environmental and social impacts	<b>EIA Regulations 2012</b> 8 Contents of EIA Report (1) An EIA report must, to the extent appropriate, include:… (g) a statement of the various alternatives that have been considered for the project, proposal or development activity… that are reasonably foreseeable and technically and economically appropriate, … (l) recommendations on the selected alternatives…	<b>Full Equivalence.</b>	None required
<b>Key element (2)</b> Document the	<b>EIA Regulations 2012</b> 8 Contents of EIA Report	<b>Full Equivalence.</b>	None required

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rationale for selecting the particular alternative proposed	(1) An EIA report must, to the extent appropriate, include:... (g) ... an outline of the reasons for choosing the proposed action;...		
<b>Key element (3)</b> Also consider the no project alternative	<b>EIA Regulations 2012</b> 8 Contents of EIA Report (1) An EIA report must, to the extent appropriate, include:... (g) a statement of the various alternatives that have been considered for the project, proposal or development activity... including the option of taking no action...	<b>Full Equivalence.</b>	None required
<b>Policy Principle 4:</b> Avoid, and where avoidance is not possible, minimize, mitigate, and/or offset adverse impacts and enhance positive impacts by means of environmental planning and management. Prepare an environmental management plan (EMP) that includes the proposed mitigation measures, environmental monitoring and reporting requirements, related institutional or organizational arrangements, capacity development and training measures, implementation schedule, cost estimates, and performance indicators. Key considerations for EMP preparation include mitigation of potential adverse impacts to the level of no significant harm to third parties, and the polluter pays principle.			
<b>Key element (1)</b> Avoid adverse impacts where possible	No corresponding legal provision.	<b>No Equivalence.</b>	Amend the EIA Regulations 2012 to require that an EIA explicitly describe the adverse impacts that can be avoided and how the project will do that.

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<b>Key element (2)</b> Where avoidance is not possible, minimize and/or, mitigate adverse impacts to the level of no significant harm to third parties	<p><b>EIA Regulations 2012</b></p> <p>7 Preparation of EIA Report (l) An EIA report on a project, proposal or development activity must:...</p> <p>(b) identify the potential impact of the project, proposal or development activity on the surrounding environment and population, and suggest possible mitigation measures;...</p> <p>8 Contents of EIA Report (1) An EIA report must, to the extent appropriate, include:...</p> <p>(h) a statement of the mitigation action proposed in respect of any adverse impacts identified in the report;...</p> <p>(l) recommendations on the... mitigation measures;...</p> <p><b>Petroleum Regulations 1997</b></p> <p>39. General Duties (1) A licensee must:...</p> <p>(d) take all reasonable steps to ensure operations are carried out in a manner that minimises any adverse impact on the environment or property.</p>	<b>Full Equivalence.</b>	None required
<b>Key element (3)</b> Offset adverse impacts	No corresponding legal provision.	<b>No Equivalence.</b>	Amend the EIA Regulations 2012 to provide for offsets as an option for mitigating adverse environmental impacts..
<b>Key element (4):</b> Enhance positive impacts	No corresponding legal provision.	<b>No Equivalence.</b>	Amend the EIA Regulations 2012 to require that an EIA explicitly describe potential positive impacts and that an EMMP must describe how the project will enhance them.
<b>Key element (5)</b> Prepare an environmental management plan (EMP) that includes the	<p><b>EIA Regulations 2012</b></p> <p>8 Contents of EIA Report (2) An EIA report must:...</p> <p>(c) be accompanied by an environmental management and monitoring plan.</p>	<b>Full Equivalence.</b>	None required

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<p>proposed mitigation measures</p>	<p>3 Preliminary environmental assessment application ... (3) ...the Director may...require the project proponent to submit an Environmental Management and Monitoring Plan.</p> <p>9 Environmental management and monitoring plan (1) An environmental management and monitoring plan (EMMP) for a project, proposal or development activity must be submitted with the EIA report. (2) An EMMP must: (a) describe, in respect of the project, proposal or development activity, the environmental protection measures that will be put in place by the project proponent if approval is given for the project, proposal or development activity;...</p> <p><b>Quarry Act 2013</b> 19 Issue of quarry permit ... (4) In addition to subsection (3), the holder of an aggregate prospecting permit must submit with the application all of the following information gathered during the prospecting phase: ... (e) the detailed work program, on an annual basis specifying...the continuous rehabilitation program for the duration of a proposed quarry site; and (j) an environment management plan; and (k) a rehabilitation plan;...</p> <p><b>Petroleum Regulations 1997</b> 32. Operations documents to be submitted before commencing operations (1) A licensee must not start operations in any part of a licence area until the Commissioner has approved operations documents which apply to those operations and that part of the licence area. (2) Operations documents means the documents set out in subregulation (3). (3) A licensee must submit:     (a) an Environmental Code of Practice; and     (b) an Environmental Report;... to the Commissioner at least two months before the proposed start of operations in the licence area. The application must state whether the documents submitted apply to conditions and</p>		

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	<p>operations throughout the licence area, or only to a specified part of it.</p> <p>33. Environmental Code of Practice The Environmental Code of Practice must contain the procedures that are proposed to apply in the part of the licence area to which the Code relates to: (a) protect wildlife, ...flora, marine creatures and sites of natural, geological ...significance, and other environmentally sensitive areas in line with existing laws...and the Republic's conservation policies; (b) minimise the disturbance of the land surface; (c) clean up and rehabilitate any areas disturbed by the operations.</p> <p>34. Environmental Report The Environmental Report must contain information on:... (c) the natural environment in the area with particular reference to the physical and biological environments and present land use; (f) any discussion or liaison carried out with any bodies or groups with an interest in environmental issues; (g) the environmental effects of undertaking the proposed operations and the measures proposed to avoid or minimise environmental effects; (h) any procedures proposed to monitor the impact on the environment of the proposed operations;...</p>		
<p><b>Key element (6)</b> Prepare an environmental management plan (EMP) that includes the proposed monitoring requirements</p>	<p><b>EIA Regulations 2012</b> 8 Contents of EIA Report (1) An EIA report must, to the extent appropriate, include:... (l) recommendations on... monitoring...</p> <p>9 Environmental management and monitoring plan (1) An environmental management and monitoring plan (EMMP) for a project, proposal or development activity must be submitted with the EIA report. (2) An EMMP must: (b) include an environmental monitoring and surveillance program of action; and (c) provide for an environmental monitoring manager to be</p>	<p><b>Full Equivalence.</b></p>	<p>None required</p>

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	appointed by the project proponent, in consultation with the Department, to verify that the EMMP and protection measures are being fulfilled and adverse impacts of the project, proposal or development activity are documented.		
<b>Key element (7)</b> Prepare an environmental management plan (EMP) that includes the proposed reporting requirements	No corresponding legal provision.	<b>No Equivalence.</b>	Amend the EIA Regulations 2012 to require that an EMMP must include proposed reporting requirements.
<b>Key element (8)</b> Prepare an environmental management plan (EMP) that includes related institutional or organizational arrangements	No corresponding legal provision.	<b>No Equivalence.</b>  The Quarry Act 2013 requires applicants for quarry permits to submit with the permit application the detailed responsibility of each parties [sic], the developer and the custom owner; this information is not part of the EMP that the Quarry Act also requires.	Amend the EIA Regulations 2012 to require that an EMMP must include institutional or organizational arrangements.
<b>Key element (9)</b> Prepare an environmental management plan (EMP) that includes related capacity development and training measures	No corresponding legal provision.	<b>No Equivalence.</b>	Amend the EIA Regulations 2012 to require that an EMMP must include capacity development and training measures.
<b>Key element (10)</b> Prepare an environmental management plan (EMP) that includes an	No corresponding legal provision.	<b>No Equivalence.</b>  The Quarry Act 2013 requires applicants for quarry permits to submit with the permit application a detailed annual work program, specifying the continuous rehabilitation program for the duration of a proposed quarry site; this information is not part of the EMP that the Quarry Act also requires.	Amend the EIA Regulations 2012 to require that an EMMP must include an implementation schedule.

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implementation schedule			
<b>Key element (11)</b> Prepare an environmental management plan (EMP) that includes cost estimates	No corresponding legal provision.	<b>No Equivalence.</b>	Amend the EIA Regulations 2012 to require that an EMMP must include cost estimates.
<b>Key element (12)</b> Prepare an environmental management plan (EMP) that includes performance indicators	No corresponding legal provision.	<b>No Equivalence.</b>	Amend the EIA Regulations 2012 to require that an EMMP must include performance indicators.
<b>Key element (13)</b> Consider the polluter pays principle in environmental management planning	<p><b>Pollution (Control) Act 2013</b> 20 General penalty for conviction ...(2) In addition to imposing a penalty under subsection (1), the Court convicting a person of an offence against this Act may order that person...</p> <p>(c) to pay costs relating to the cleaning up of pollution and the rehabilitation of any area affected by the pollution.</p> <p><b>EPCA 2010</b> 42C Additional Court Orders (1) The Court may, when convicting a person for an offence under this Act...make an order: ...(c) directing the person to undertake the restoration of the area on which any activity is taking place, to as near to its original condition with the cost to be borne by the proponent; or (d) directing the person to carry out improvement or remediation work on the area, with the cost to be borne by the proponent;... (g) directing the person to pay a specified amount into the Trust Fund for the purposes of restoring the area on which the activity is taking place, to as near to its original condition;...</p>	<b>Full Equivalence.</b>	None required

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions <sup>1</sup>	(C) Extent of Equivalence <sup>2</sup>	(D) Recommended Gap-filling Measures to Attain Full Equivalence
	<p>(2) If a person is convicted of an offence under this Act, the Court may when sentencing the offender and on the application by a person aggrieved, order the convicted person to pay to the person aggrieved:...</p> <p>(b) the cost of any preventative or remedial action proved to have been reasonably taken or caused to be taken by that person as a result of the act or omission that constituted the offence.</p> <p>44B. Environmental Trust Fund</p> <p>(1) The Environmental Trust Fund is established.</p> <p>(2) There is to be paid into the Trust Fund:...</p> <p>(b) any environmental bond; or</p> <p>(c) any contribution or donation; or</p> <p>(d) fines of fixed penalties; or</p> <p>(e) any environmental protection fee; or</p> <p>(f) any other money required under this Act or any other written law to be paid into the Trust Fund.</p> <p>(3) The Department is to administer the Trust Fund for the following purposes:...</p> <p>(b) to pay for environmental rehabilitation work;...</p> <p>(f) as required for the protection and conservation of the environment.</p> <p><b>EIA Regulations 2012</b></p> <p>23 Variation or cancellation of EIA approval</p> <p>... (2) If the Director is satisfied:...</p> <p>(b) that the environmental conditions of the site have changed to such an extent as to render the approval inappropriate, the Director may cancel the EIA approval and require the site to be restored as far as possible to the state before EIA approval was given.</p> <p>(3) The restoration cost undertaken under subclause (2) is to be met by the project proponent.</p>		
<p><b>Policy Principle 5:</b> Carry out meaningful consultation with affected people and facilitate their informed participation. Ensure women’s participation in consultation. Involve stakeholders, including affected people and concerned nongovernment organizations, early in the project preparation process and ensure that their views and concerns are made known to and understood by decision makers and taken into account. Continue consultations with stakeholders throughout project implementation as necessary to address issues related to environmental assessment. Establish a grievance redress mechanism to receive and facilitate resolution of the affected people’s concerns and grievances regarding the project’s environmental performance.</p>			
<b>Key element (1)</b>	<b>EPCA 2010</b>	<b>Full Equivalence.</b>	None required



<b>(A)</b> <b>ADB Safeguard Policy Statement</b>	<b>(B)</b> <b>Corresponding Legal Provisions<sup>1</sup></b>	<b>(C)</b> <b>Extent of Equivalence<sup>2</sup></b>	<b>(D)</b> <b>Recommended Gap-filling Measures to Attain Full Equivalence</b>
Carry out meaningful consultation with affected people and facilitate their informed participation.	<p>20. Public notice of EIA</p> <p>(1) The project proponent must give such public notice about the project, proposal or development activity as the Director determines is appropriate in the circumstances.</p> <p>(2) Any requirement for public notice must be practical and be reasonably certain to reach any identified interested parties.</p> <p>(3) If the public notice invites written submissions, it must specify:</p> <p>(a) the time period by which submissions must be received;</p> <p>and</p> <p>(b) the address to which submissions must be sent.</p> <p>(4) If practicable, a copy of any public notice must be lodged by the project proponent in the Environmental Registry.</p> <p><b>EIA Regulations 2012</b></p> <p>3 Preliminary environmental assessment application</p> <p>... (2) If an application for PEA complies with subclause (1), the Director may seek comments on it from any... person who in the opinion of the Director has a direct interest in the subject matter of the application.</p> <p>8 Contents of EIA Report</p> <p>(1) An EIA report must, to the extent appropriate, include:...</p> <p>(i) details of individuals... villagers... and others who have an interest, expertise... regarding the project, proposal or development activity and who have been consulted;...</p> <p>(k) a summary of the results of public consultations held on the project, proposal or development activity,</p> <p>(l) recommendations on... any additional consultation that may be required;...</p> <p>10 Public consultation</p> <p>(1) The project proponent must conduct public consultations on the project, proposal or development activity at times and places as determined by the Director and convenient for those likely to wish to take part.</p> <p>(2) At least one of the public consultation meetings must be held in the close vicinity of the area of the proposed development.</p>		

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	<p><b>Petroleum Regulations 1997</b> 34. Environmental Report The Environmental Report must contain information on:...</p> <p>(f) any discussion or liaison carried out with any bodies or groups with an interest in environmental issues;...</p>		
<p><b>Key element (2)</b> Ensure women's participation in consultation</p>	<p>No corresponding legal provision.</p>	<p><b>No Equivalence.</b></p>	<p>Amend the EIA Regulations 2012 to explicitly require the Director and the project proponent to facilitate women's informed participation.</p>
<p><b>Key element (3)</b> Involve stakeholders, including affected people and concerned nongovernment organizations</p>	<p><b>EIA Regulations 2012</b> 3 Preliminary environmental assessment application ...(2) If an application for PEA complies with subclause (l), the Director may seek comments on it from any...Non-government Organisation or any person who in the opinion of the Director has a direct interest in the subject matter of the application.</p> <p>8 Contents of EIA Report (1) An EIA report must, to the extent appropriate, include:...</p> <p>(i) details of individuals,...non-governmental organisations, villagers,...who have an interest, expertise... regarding the project, proposal or development activity and who have been consulted;...</p> <p>(k) a summary of the results of public consultations held on the project, proposal or development activity;...</p>	<p><b>Partial Equivalence.</b>  Under the EIA Regulations 2012, consultation at the PEA/screening stage is discretionary.</p>	<p>Amend the EIA Regulations 2012 to require consultation with affected people and concerned NGOs at the PEA/screening stage.</p>
<p><b>Key element (4)</b> Involve stakeholders early in the project preparation process</p>	<p><b>EIA Regulations 2012</b> 3 Preliminary environmental assessment application ...(2) If an application for PEA complies with subclause (l), the Director may seek comments on it from any...Non-government Organisation or any person who in the opinion of the Director has a direct interest in the subject matter of the application.</p> <p>5 Consultation in preparing terms of reference (1) The Director may invite participation from any Ministry, Department, Local Government, Statutory Authority, Non-government Organisation or any person who in the opinion of the Director has a direct interest in the subject matter of the project, proposal or development activity to assist in the preparation of the terms of reference.</p>	<p><b>Partial Equivalence.</b>  Under the EIA Regulations 2012, consultation at the PEA/screening stage is discretionary.</p>	<p>Amend the EIA Regulations 2012 to require consultation with stakeholders at the PEA/screening stage.</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions <sup>1</sup>	(C) Extent of Equivalence <sup>2</sup>	(D) Recommended Gap-filling Measures to Attain Full Equivalence
	(2) The Director may conduct public consultations on the terms of reference for a project, proposal or development at times and places determined by the Director and convenient for those likely to wish to take part.		
<b>Key element (5)</b> Ensure that stakeholder views and concerns are made known to and understood by decision makers and taken into account.	No corresponding legal provision.	<b>No Equivalence.</b>	Amend the EIA Regulations 2012 to explicitly require the Director to take stakeholder views and concerns into account in making a decision to approve a project, proposal or development activity.
<b>Key element (6)</b> Continue consultations with stakeholders throughout project implementation as necessary to address issues related to environmental assessment	No corresponding legal provision.	<b>No Equivalence.</b>	Amend the EIA Regulations 2012 to require proponents to continue consultations with stakeholders throughout project implementation as necessary to address issues related to the project's environmental performance.
<b>Key element (7)</b> Establish a grievance redress mechanism to receive and facilitate resolution of the affected people's concerns and grievances regarding the	<b>Constitution 1980, amended up to 2013</b> The Judiciary 47. (1) ...The function of the judiciary is to resolve proceedings according to law. If there is no rule of law applicable to a matter before it, a court shall determine the matter according to substantial justice and whenever possible in conformity with custom.  51. Ascertainment of rules of custom (1) Parliament may provide for the manner of the ascertainment of relevant rules of custom except for the rules of custom relating to ownership of custom land, and may in particular provide for	<b>Partial equivalence</b>  The EPCA 2010 provides for appealing to the Supreme Court, but the EIA regime does not require a project-specific grievance mechanism.	Amend the EPCA 2010 to establish a grievance redress mechanism to facilitate resolution of affected people's concerns and grievances concerning environmental issues.  Amend the EIA Regulations 2012 to require project proponents to establish a grievance redress mechanism

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<p>project's environmental performance.</p>	<p>persons knowledgeable in such custom to sit with the judges of the Supreme Court or the Court of Appeal and take part in its proceedings.</p> <p>Village and Island Courts 52. Parliament shall provide for the establishment of village or island courts with jurisdiction over customary and other matters and shall provide for the role of chiefs in such courts.</p> <p><b>Environmental Protection and Conservation Act 2002, amended 2010</b> 43. Appeal to the Supreme Court (1) A person may appeal to the Supreme Court against any decision made by the Minister or Director to do all or any of the following: (a) to require an EIA under section 17; (b) to reject an application under section 23 or section 34; (c) to impose terms and conditions on any approval given under section 23 or section 34; (d) to issue a direction under section 26; (e) to make a decision prescribed by the regulations as a decision in respect of which an appeal can be made. (2) An appeal must be brought, by originating application, not more than 28 days after the date on which the appellant is notified of the decision appealed against, or within such further period as the Supreme Court may allow. (3) The Supreme Court may: (a) confirm, reverse or modify the decision appealed against, and make such orders and give such directions to the Minister, Director or Council as may be necessary to give effect to the Court's decision; or (b) refer the matter back to the Minister, Director or Council with directions to reconsider the whole or any specified part of the matter.</p>		<p>to facilitate resolution of stakeholders' concerns and grievances concerning a project's environmental performance throughout project implementation.</p>
<p><b>Policy Principle 6:</b> Disclose a draft environmental assessment (including the EMP) in a timely manner, before project appraisal, in an accessible place and in a form and language(s) understandable to affected people and other stakeholders. Disclose the final environmental assessment, and its updates if any, to affected people and other stakeholders.</p>			

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<b>Key element (1)</b> Disclose a draft environmental assessment including the EMP	<b>EIA Regulations 2012</b> 14 Public consultation on an EIA report (1) The Director may require a project proponent to conduct public consultations on the EIA report... (3) If a public consultation meeting is held, notice of it must be given by the project proponent in the manner directed by the Director and must inform the public of: (b) where copies of the EIA report can be obtained;...	<b>Partial Equivalence.</b>  Under the EIA Regulations 2012, a draft EIA report must be disclosed only if a project proponent is required to conduct public consultations on it. Public consultations are at the discretion of the Director.	Amend the EIA Regulations 2012 to specify that consultation on an EIA report is mandatory and that the draft EIA report and the EMP must be disclosed to the public.
<b>Key element (2)</b> Disclose a draft environmental assessment in a timely manner prior to appraisal.	<b>EIA Regulations 2012</b> 14 Public consultation on an EIA report (1) The Director may require a project proponent to conduct public consultations on the EIA report at a time...determined by the Director and convenient for those likely to wish to take part.... (3) If a public consultation meeting is held, notice of it must be given by the project proponent in the manner directed by the Director and must inform the public of:... (d) the time limit as determined by the Director for the submission of comments in writing.	<b>Partial Equivalence.</b>  The EIA Regulations 2012 do not specify the amount of time stakeholders must have to comment on a draft EIA.	Amend the EIA Regulations 2012 to specify a minimum number of days that a draft EIA must be available for public review.
<b>Key element (3)</b> Disclose a draft environmental assessment in an accessible place	<b>EIA Regulations 2012</b> 14 Public consultation on an EIA report (1) The Director may require a project proponent to conduct public consultations on the EIA report at a...place determined by the Director and convenient for those likely to wish to take part.... (3) If a public consultation meeting is held, notice of it must be given by the project proponent in the manner directed by the Director and must inform the public of:... (b) where copies of the EIA report can be obtained;...	<b>Partial Equivalence.</b>  The EIA Regulations require notifying the public where copies of the EIA report can be obtained, but do not stipulate that that place be accessible to stakeholders.	Amend the EIA Regulations 2012 to require that draft EIA reports, be disclosed to the public in an accessible place.
<b>Key element (4)</b> Disclose a draft environmental assessment in a form and language(s) understandable to affected people and other stakeholders	No corresponding legal provision.	<b>No Equivalence.</b>	Amend the EIA Regulations 2012 to require that PEAs, EIA reports, and EMMPs be written in a form and language(s) that are understandable to all stakeholders.
<b>Key element (5)</b> Disclose the final	No corresponding legal provision.	<b>No Equivalence.</b>	Amend the EIA Regulations 2012 to require disclosure to

<b>(A)</b> <b>ADB Safeguard Policy Statement</b>	<b>(B)</b> <b>Corresponding Legal Provisions<sup>1</sup></b>	<b>(C)</b> <b>Extent of Equivalence<sup>2</sup></b>	<b>(D)</b> <b>Recommended Gap-filling Measures to Attain Full Equivalence</b>
environmental assessment, and its updates if any, to affected people and other stakeholders			the public of final EIA reports.
<b>Policy Principle 7:</b> Implement the EMP and monitor its effectiveness. Document monitoring results, including the development and implementation of corrective actions, and disclose monitoring reports.			
<b>Key element (1)</b> Implement the EMP	<b>EIA Regulations 2012</b> 17- EMMP forms part of EIA approval (1) Any environmental management and monitoring plan that has been submitted as part of the EIA Report and approved by the Director forms part of the EIA approval for the project, proposal or development activity. (2) A person who contravenes or fails to comply with a term or condition of the EMMP commits an offence in accordance with paragraph 41(l)(d) of the Act.	<b>Full Equivalence.</b>	None required
<b>Key element (2)</b> Monitor effectiveness of EMP	<b>EIA Regulations 2012</b> 9 Environmental management and monitoring plan ...(2) An EMMP must:... (c) provide for an environmental monitoring manager to be appointed by the project proponent, in consultation with the Department, to verify that the EMMP and protection measures are being fulfilled and adverse impacts of the project, proposal or development activity are documented.  20 Compliance and monitoring inspections (1) The Department may cause a site or activity to be inspected to ascertain:... (b) compliance with conditions of EIA approval, including any EMMP or mitigation measure that is required as a condition of the approval.... (8) Compliance and monitoring inspections may be conducted throughout the life of the activity or use of the project, proposal or development activity for which EIA approval has been granted.	<b>Full Equivalence.</b>	None required
<b>Key element (3)</b> Document monitoring	<b>EIA Regulations 2012</b> 9 Environmental management and monitoring plan ...(2) An EMMP must:...	<b>Full Equivalence.</b>	None required

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results, including the development and implementation of corrective actions	(c) provide for an environmental monitoring manager to be appointed by the project proponent, in consultation with the Department, to verify that the EMMP and protection measures are being fulfilled and adverse impacts of the project, proposal or development activity are documented.		
<b>Key element (4)</b> Disclose monitoring reports	No corresponding legal provision.	<b>No Equivalence.</b>	Amend the EIA Regulations 2012 to require disclosing monitoring reports.
<b>Policy Principle 8:</b> Do not implement project activities in areas of critical habitats, unless (i) there are no measurable adverse impacts on the critical habitat that could impair its ability to function, (ii) there is no reduction in the population of any recognized endangered or critically endangered species, and (iii) any lesser impacts are mitigated. If a project is located within a legally protected area, implement additional programs to promote and enhance the conservation aims of the protected area. In an area of natural habitats, there must be no significant conversion or degradation, unless (i) alternatives are not available, (ii) the overall benefits from the project substantially outweigh the environmental costs, and (iii) any conversion or degradation is appropriately mitigated. Use a precautionary approach to the use, development, and management of renewable natural resources.			
<b>Key element (1)</b> Do not implement project activities in areas of critical habitats <sup>4</sup> , unless (i) there are no measurable adverse impacts on the critical habitat that could impair its ability	<b>EPCA 2010</b> 2. Interpretation In this Act, unless the contrary intention appears: "significant environmental impact" in relation to a project, proposal or development activity means an impact on the environment, either in the context of the setting of the proposed or in the context of the intensity of the proposed's [sic] effect on the environment, and includes, but is not limited to:... (i) the potential threat to the existence of protected and endangered species or their critical habitat;... 12. Activities that are subject to an EIA (2) Without limiting subsection (1), all projects, proposals or	<b>Partial Equivalence.</b>  The EPCA 2010 provides for identifying sites with national biodiversity significance and the National Parks Act 1993 provides for protecting critical habitat, although it does not use that term. There does not appear to be any national law or regulation that provides for conserving critical habitats outside of protected areas.	Amend the National Parks Act 1993 to: • define 'critical habitat' <sup>5</sup> ; • provide for conserving critical habitats outside of legally protected areas; and • prohibit activities in any area of critical habitat unless there are no measurable adverse impacts on the critical habitat that could impair its ability to function.

<sup>4</sup> ADB's Safeguard Policy Statement defines 'critical habitat' as "[a] subset of both natural and modified habitat that deserves particular attention. Critical habitat includes areas with high biodiversity value, including habitat required for the survival of critically endangered or endangered species; areas having special significance for endemic or restricted-range species; sites that are critical for the survival of migratory species; areas supporting globally significant concentrations or numbers of individuals of congregatory species; areas with unique assemblages of species or that are associated with key evolutionary processes or provide key ecosystem services ; and areas having biodiversity of significant social, economic, or cultural importance to local communities."

<sup>5</sup> National Biodiversity Conservation Strategy 1999  
Objective 1: Biodiversity protection and conservation  
Priority 5: Conservation of significant species and places  
The Strategy identifies habitats that have high conservation value and are key habitats for vulnerable species.

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to function	<p>development activities that will do or are likely to do all or any of the following are subject to the EIA provisions of this Part:...</p> <p>(c) affect any protected, rare, threatened or endangered species, its habitat or nesting grounds;...</p> <p>35. Identification of sites having national biodiversity significance The Director may, after acquiring the consent of the custom land owners, negotiate with the applicant for the protection and registration of any site as a Community Conservation Area where he or she is satisfied that the site:</p> <p>(a) possesses unique genetic,...or biological resources; or (b) constitutes the habitat of species of wild fauna or flora of unique national or international importance;...</p> <p><b>National Parks Act 1993</b></p> <p>2. Declaration of national parks and nature reserves</p> <p>(1) The provisions of this Act shall have effect for the purpose of protecting and preserving in their natural state, as national parks or nature reserves, areas of Vanuatu, which –</p> <p>(a) have unique ecosystems, genetic resources or physical and biological formation; or (b) constitute the habitat of threatened species of animals and plants of outstanding value from the point of view of science and conservation;...</p>		Amend the EIA Regulations 2012 to stipulate that areas of critical habitats must be included in the factors to be taken into account in the EIA process.
<b>Key element (2)</b> Do not implement project activities in areas of critical habitats, unless... (ii) there is no reduction in the population of any recognized endangered or critically endangered	See Policy Principle 8, Key element 1.	<b>Partial Equivalence.</b>  See Policy Principle 8, Key element 1.	See Policy Principle 8, Key element 1.  In addition: Amend the National Parks Act 1993 to prohibit activities in areas of critical habitats unless there is no reduction in the population of any recognized endangered or critically endangered species.



(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions <sup>1</sup>	(C) Extent of Equivalence <sup>2</sup>	(D) Recommended Gap-filling Measures to Attain Full Equivalence
species			
<b>Key element (3)</b> Do not implement project activities in areas of critical habitats, unless... (iii) any lesser impacts are mitigated.	See Policy Principle 8, Key element 1.	<b>Partial Equivalence.</b>  See Policy Principle 8, Key element 1.	See Policy Principle 8, Key element 1.  In addition: Amend the National Parks Act 1993 to prohibit activities in areas of critical habitats unless any lesser impacts are mitigated.
<b>Key element (4)</b> If a project is located within a legally protected area, implement additional programs to promote and enhance the conservation aims of the protected area.	<b>ECPA 2010</b> 12. Activities that are subject to an EIA (2) Without limiting subsection (1), all projects, proposals or development activities that will do or are likely to do all or any of the following are subject to the EIA provisions of this Part:... (g) affect protected or proposed protected areas;...	<b>Partial Equivalence.</b>  The ECPA 2010 requires an EIA for projects that would affect protected or proposed protected areas, but does not provide any further guidance on what should be done to mitigate impacts.  The National Parks Act 1993 provides for declaring and managing protected areas, but does not address the issue of development within a protected area or provide guidance on how a protected area management plan should deal with development impacts on protected areas.  The Forestry Act 2001 provides for declaring conservation areas for the purposes of that Act and prohibits commercial forestry operations in them.  Vanuatu is a Party to the Convention Concerning the Protection of the World Cultural and Natural Heritage.	Amend the National Parks Act 1993 and the ECPA 2010 to require any activity located within a legally protected area to implement additional programs to promote and enhance the conservation aims of the protected area.
<b>Key element (5)</b> In an area of natural habitats, there must be no significant conversion or degradation, unless (i)	<b>EPCA 2010</b> 2. Interpretation In this Act, unless the contrary intention appears: "significant environmental impact" in relation to a project, proposal or development activity means an impact on the environment, either in the context of the setting of the proposed or in the context of the intensity of the proposed's effect on the environment, and includes, but is not limited to:...	<b>Partial Equivalence.</b>  The EPCA 2010 provides for identifying sites with national biodiversity significance and the National Parks Act 1993 provides for protecting habitat. There does not appear to be any national law or regulation that provides for conserving natural habitats outside of protected areas.	Amend the ECPA 2010 to: ▪ define 'natural habitat'; and ▪ provide for conserving natural habitats outside protected areas and, in particular, stipulate that, if an activity is implemented within a an area of natural habitats, the

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alternatives are not available	<p>g) the degree to which the natural functioning of the ecosystem is likely to be inhibited; or</p> <p>(h) the degree to which a...natural...resource may be threatened;...</p> <p>(j) the degree to which fish and wildlife resources of ecological...importance are jeopardised;...</p> <p>35. Identification of sites having national biodiversity significance The Director may, after acquiring the consent of the custom land owners, negotiate with the applicant for the protection and registration of any site as a Community Conservation Area where he or she is satisfied that the site:</p> <p>(a) possesses unique genetic,...or biological resources; or</p> <p>(b) constitutes the habitat of species of wild fauna or flora of unique national or international importance;...</p>		decision to approve it must impose the condition there must be no significant conversion or degradation unless alternatives are not available.
<b>Key element (6)</b> In an area of natural habitats, there must be no significant conversion or degradation, unless...(ii) the overall benefits from the project substantially outweigh the environmental costs	See Policy Principle 8, Key element 5.	<b>Partial Equivalence.</b>  See Policy Principle 8, Key element 5.	See Policy Principle 8, Key element 5.  In addition: Amend the ECPA 2010 to stipulate that, if any activity is implemented within an area of natural habitats, the decision to approve the activity must impose the condition there must be no significant conversion or degradation unless the overall benefits from the activity substantially outweigh the environmental costs.
<b>Key element (7)</b> If a project is located within a legally protected area, there must be no significant conversion or	See Policy Principle 8, Key element 4.	<b>Partial Equivalence.</b>  See Policy Principle 8, Key element 4.	See Policy Principle 8, Key element 4.  In addition: Amend the National Parks Act 1993 and the ECPA 2010 to stipulate that, if a project is

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions <sup>1</sup>	(C) Extent of Equivalence <sup>2</sup>	(D) Recommended Gap-filling Measures to Attain Full Equivalence
degradation, unless...(iii) any conversion or degradation is appropriately mitigated.			located within a legally protected area, there must be no significant conversion or degradation, unless any conversion or degradation is appropriately mitigated.
<p><b>Key element (8)</b> Use a precautionary approach to the use, development, and management of renewable natural resources.</p>	<p><b>Waste Management Act 2014</b> 2 Application of precautionary principle (1) Any person or agency that: (a) has a responsibility under this Act; or (b) whose functions and powers may relate to any matter or thing involving the environment, must apply the precautionary principle when discharging their responsibilities or functions, or exercising their powers.</p> <p><b>Pollution (Control) Act 2013</b> 2 Application of the precautionary principle (1) ...all persons and agencies having responsibilities under this Act...are to apply the precautionary principle when discharging their responsibilities and functions, or exercising their powers.</p> <p><b>EPCA 2010</b> 5A Application of the precautionary principle (1) Notwithstanding the provisions of any other Act, all persons and agencies having responsibilities under this Act, or whose functions and powers may relate to any matter or thing involving the environment, are to apply the precautionary principle when discharging their responsibilities and functions, or exercising their powers.</p> <p><b>Ozone Layer Protection Act 2010</b> 3 Precautionary principle (1) Notwithstanding any provision in any other Act, any person or agency: (a) who has responsibilities under this Act; or (b) whose functions and powers may relate to any matter or thing involving the use, manufacture, sale, handling, storage or movement of ozone depleting substances within Vanuatu, is to apply the precautionary principle when discharging their</p>	<p><b>Full Equivalence.</b></p>	<p>None required</p>

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	responsibilities and functions, or exercising their powers.		
<b>Policy Principle 9:</b> Apply pollution prevention and control technologies and practices consistent with international good practices as reflected in internationally recognized standards such as the World Bank Group's Environmental, Health and Safety Guidelines. Adopt cleaner production processes and good energy efficiency practices. Avoid pollution, or, when avoidance is not possible, minimize or control the intensity or load of pollutant emissions and discharges, including direct and indirect greenhouse gases emissions, waste generation, and release of hazardous materials from their production, transportation, handling and storage. Avoid the use of hazardous materials subject to international bans or phaseouts. Purchase, use, and manage pesticides based on integrated pest management approaches and reduce reliance on synthetic chemical pesticides.			
<b>Key element (1)</b> Apply pollution prevention and control technologies and practices consistent with international good practices	No corresponding legal provision.	<b>No Equivalence.</b>  The Pollution (Control) Act 2013 provides for issuing regulations to establish standards and codes of practice, but does not stipulate that such standards and codes of practice must be consistent with international good practices.	Adopt regulations under the Pollution (Control) Act 2013 which stipulate that technologies, measures, standards, guidelines and codes of practice for pollution prevention and control must be consistent with international good practices.
<b>Key element (2)</b> Adopt cleaner production processes	<b>Waste Management Act 2014</b> 35 Reduction, Reuse and Recycling of waste (1) A designated waste management operator is to promote the reduction, reuse and recycling of waste...	<b>Partial Equivalence.</b>  The Waste Management Act 2014 requires waste management operators to promote reducing, reusing and recycling waste, but there does not appear to be any national law or regulation that requires reducing all forms of pollution at the source.	Amend the ECPA 2010 and the Waste Management Act 2014 to require all persons to reduce all forms of pollution at the source, including by adopting cleaner production processes.
<b>Key element (3)</b> Adopt good energy efficiency practices.	<b>EIA Regulations 2012</b> 8 Contents of EIA Report (1) An EIA report must, to the extent appropriate, include:... (g) a statement of the various alternatives that have been considered for the project, proposal or development activity, including energy efficiency measures...	<b>Partial Equivalence.</b>  The EIA Regulations 2012 specify that an EIA report must consider energy efficiency in analyzing alternatives to a proposed project, but there does not appear to be a national law or regulation that requires adopting energy efficiency practices.	Amend existing law and regulations or develop a regulatory regime for energy that provides for adopting good energy efficiency practices. <sup>6</sup>
<b>Key element (4)</b> Avoid pollution,	<b>Pollution (Control) Act 2013</b> Part 2 Obligations to Take Pollution Control Measures	<b>Full Equivalence.</b>	None required

<sup>6</sup> Vanuatu National Energy Road Map 2013-2020

The Roadmap has a focus on the five energy sector priorities:...

5) Climate Change- Mitigating climate change through renewable energy and energy efficiency.

Description:

- Examine options for increasing renewable energy and improving energy efficiency and conservation

<b>(A) ADB Safeguard Policy Statement</b>	<b>(B) Corresponding Legal Provisions<sup>1</sup></b>	<b>(C) Extent of Equivalence<sup>2</sup></b>	<b>(D) Recommended Gap-filling Measures to Attain Full Equivalence</b>
<p>or, when avoidance is not possible, minimize or control the intensity or load of pollutant emissions and discharges, including direct and indirect greenhouse gases emissions</p>	<p>8 Measures applying to premises The owner or occupier of any premises must comply with any prescribed standard for the discharge of pollution, waste water and the emission of noise, odour or electromagnetic radiation from the premises.</p> <p>9 Permit for the discharge of pollutants (1) A person who occupies or owns any premises must not: (a) cause or increase the discharge of pollution, or the emission of odour, electromagnetic radiation or unreasonable noise from the premises; or (b) alter the nature of pollution discharged, or to increase the emission of noise, odour or electromagnetic radiation emitted from the premises, unless that person is permitted to do so under a permit issued under this Act.</p> <p>19 Discharge or emission of pollutants from premises (1) A person must not discharge or emit pollutants from any premises on or onto any land, body of water, foreshore or air so as to result in: (a) unreasonable interference with the health, welfare, or amenity of any other person; or (b) any adverse effect on the environment.</p> <p><b>Petroleum Regulations 1997</b> 34. Environmental Report The Environmental Report must contain information on:... (j) proposals to ensure quality of water discharged is in accordance with existing laws and the National Conservation policies of the Republic;...</p> <p>Division 6 – Protection of the environment 54. General duties A licensee must:... (f) prevent the pollution of any body of water, land area or marine environment by the escape of petroleum, salt water, drilling fluid, chemical additive, gas (not being petroleum), waste, effluent or any other product;</p>		

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	(g) if pollution occurs, treat or disperse it in an environmentally acceptable manner.		
<p><b>Key element (5)</b> Avoid pollution, or, when avoidance is not possible, minimize or control waste generation</p>	<p><b>Waste Management Act 2014</b></p> <p>9 National waste management strategy (1) The Director is responsible for formulating and implementing a National Waste Management Strategy, and the implementation of programs and projects in support of that Strategy. (2) For the purposes of this section, the purpose of the National Waste Management Strategy is to minimize the generation of waste and waste going to landfill, while maximizing the recovery of resources and improving the management of residual waste using environmentally sound techniques suited to local conditions. (3) The Director is to ensure that the National Waste Management Strategy, and the programs and projects implementing the Strategy, make adequate arrangements in relation to:...</p> <p>(e) minimising the generation of waste within Vanuatu; and (f) promoting the reuse and recycling of waste, and ensuring that recycling operations are undertaken in accordance with appropriate regulatory requirements; and...</p> <p>12 Audit of waste generation and disposal (1) The Director is to undertake an annual audit of the waste generated and disposed of in Vanuatu.</p> <p>20 Functions of designated waste management operators (1) A designated waste management operator has the following functions:...</p> <p>(g) to implement litter and waste control measures, including programs aimed at promoting reuse and recycling of waste, and minimising the generation of waste; and (h) ...assist the Director to conduct annual audits of waste generation and disposal...</p> <p>(2) The Department [of Environmental Protection and Conservation], as a designated waste management operator, has the following functions:...</p> <p>(f) to raise public awareness on matters concerning the minimisation of the generation of waste, the reuse and recycling of waste and the effective management of waste; (g) to formulate and implement policies, programs and initiatives</p>	<p><b>Full Equivalence.</b></p>	<p>None required</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions <sup>1</sup>	(C) Extent of Equivalence <sup>2</sup>	(D) Recommended Gap-filling Measures to Attain Full Equivalence
	<p>aimed at reduction, reuse and recycling of waste.</p> <p>27 Additional or increased fees (1) The head of a designated waste management operator may impose an additional or increased fee to any premises or class of premises which: (a) generate a particular type of waste or greater quantities of waste;...</p> <p>44 Regulations (1) The Minister may by Order make regulations... (2) ...the Minister may make regulations for any of the following purposes:... (f) prescribe procedures for the collection and dissemination of waste related information to raise awareness of waste related matters and permit informed decision making in relation to the minimisation of the generation of waste and the adverse affects [sic] of waste on human health and the environment; or (g) prescribe for the auditing of waste generation, disposal and management;...</p>		
<p><b>Key element (6)</b> Avoid pollution, or, when avoidance is not possible, minimize or control release of hazardous materials from their production, transportation, handling, and storage</p>	<p><b>Waste Management Act 2014</b> 1 Interpretation (1) In this Act, unless the contrary intention appears:... hazardous waste and hazardous substance means: (a) any waste or substances which are, or which have the potential to be, toxic or poisonous, or which may cause injury or damage to human health or to the environment, including all persistent organic pollutants; and (b) any specific substance, object or thing determined under any law to be a hazardous waste or a hazardous substance; and (c) any other matter or thing deemed under international conventions applicable to Vanuatu to be hazardous waste or hazardous substances, or to have the characteristics of hazardous waste or substances;...</p> <p>9 National waste management strategy (3) The Director is to ensure that the National Waste Management Strategy, and the programs and projects implementing the Strategy, make adequate arrangements in relation to:...</p>	<p><b>Partial Equivalence.</b></p> <p>The Waste Management Act 2014 stipulates that designated waste management operators must introduce programs for the collection and disposal of hazardous waste and that the National Waste Management Strategy must make particular arrangements for the collection, transportation, storage and disposal of hazardous waste.</p>	<p>Adopt regulations that further specify the obligations of designated waste management operators with respect to hazardous waste.</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions <sup>1</sup>	(C) Extent of Equivalence <sup>2</sup>	(D) Recommended Gap-filling Measures to Attain Full Equivalence
	<p>(g) particular arrangements for the collection, transportation, storage and disposal of hazardous waste;...</p> <p>13 Designation of waste (1) Any object, substance or thing may be determined to be a waste or hazardous waste: (a) by regulations made by the Minister declaring any class or type of object, substance or thing to be waste or a hazardous waste; or (b) by the service of a written notice on a person who appears to own or control the object, substance or thing declaring any particular object, substance or thing to be waste or a hazardous waste.</p> <p>20 Functions of designated waste management operators ...(2) The Department [of Environmental Protection and Conservation], as a designated waste management operator, has the following functions: (a) to introduce programs for the collection and disposal of hazardous...waste;...</p> <p>27 Additional or increased fees (2) Further fees may be set and imposed under this section for:.... (b) the collection, storage or disposal of hazardous waste;...</p> <p>44 Regulations (1) The Minister may by Order make regulations... (2) ...the Minister may make regulations for any of the following purposes:.... (l) specify toxic, noxious and hazardous waste, and impose regulatory measures or prohibitions in relation to their management and disposal;...</p>		
<p><b>Key element (7)</b> Avoid the use of hazardous materials subject to international bans or phaseouts</p>	<p><b>Waste Management Act 2014</b> 1 Interpretation (1) In this Act, unless the contrary intention appears:.... hazardous waste and hazardous substance means:.... (a) any waste or substances which are, or which have the potential to be, toxic or poisonous, or which may cause injury or damage to human health or to the environment, including all persistent organic pollutants;...</p>	<p><b>Partial Equivalence.</b></p> <p>Under the Ozone Layer Protection Act 2010, Vanuatu's measures to avoid the use of ozone depleting substances are fully equivalent with Policy Principle 9, Key element 7.</p> <p>The Waste Management Act 2014 enables regulations governing persistent organic pollutants.</p>	<p>Adopt regulations under the Waste Management Act 2014 to implement Vanuatu's obligations under the Stockholm Convention on Persistent Organic Pollutants.</p>



(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions <sup>1</sup>	(C) Extent of Equivalence <sup>2</sup>	(D) Recommended Gap-filling Measures to Attain Full Equivalence
	<p>persistent organic pollutant means any of the chemicals or substances regulated, from time to time, under the Stockholm Convention, including any substance or thing which is or contains aldrin, chlordane, DDT, dieldrin, endrin, heptachlor, mirex, toxaphene, hexachlorobenzene or polychlorinated biphenyls;...</p> <p>44 Regulations (1) The Minister may by Order make regulations... (2) ...the Minister may make regulations for any of the following purposes:...</p> <p>(l) specify toxic, noxious and hazardous waste, and impose regulatory measures or prohibitions in relation to their management and disposal;...</p> <p><b>Ozone Layer Protection Act 2010</b> 2 Objects of the Act The objects of this Act are to:</p> <p>(a) protect human health and the environment from adverse effects resulting or likely to result from human activities which modify or are likely to modify the ozone layer; and (b) phase out ozone depleting substances as soon as possible except for essential uses; and (c) give effect to the Vanuatu's obligations under the Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer.</p> <p>4 Prohibitions and restrictions on the importation of controlled substances 5 Prohibitions on the importation of certain goods 6 Exemptions in relation to imports 7 Regulation of exports of controlled substances 8 Prohibitions on manufacture of controlled substances 9 Prohibitions on sales of controlled substances 10 Exemptions in relation to sales 11 General principles to be applied to permits, registrations and licenses 12 General provisions in relation to permits, registrations and licenses 13 Provision of information relevant to controlled substances</p>	<p>Vanuatu is a Party to:</p> <ul style="list-style-type: none"> <li>▪ Stockholm Convention on Persistent Organic Pollutants</li> <li>▪ Vienna Convention for the Protection of the Ozone Layer</li> <li>▪ Montreal Protocol on Substances that Deplete the Ozone Layer.</li> </ul>	

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	14 Quarantine and pre-shipment permits 15 Medical and health related permits 16 Import permits for Approved Importers 17 Goods for which no permit may apply 18 Registration of Approved Importers and Approved Facilities 19 Licensing of Approved Importers and Approved Facilities 20 Base year license for HCFC's 21 Licensing of persons to handle controlled substances Enforcement and Offences 28 National Ozone Advisory Committee Schedule Controlled Substances		
<b>Key element (8)</b> Purchase, use, and manage pesticides based on integrated pest management approaches	<b>Pesticides (Control) Act 1993</b> 8. Prohibition on importation, manufacture, formulation, use, distribution, etc., of pesticides Notwithstanding anything in any other Act, but subject to the provisions of this Act, no person shall import into Vanuatu or manufacture, formulate, pack or distribute, sell, offer for sale or offer as a gift or free sample or deliver within Vanuatu any pesticide unless – (a) such pesticide is registered and a certificate of registration is obtained under this Act; (b) such pesticide is contained in the original container, or in an approved container or approved package and an approved label is conspicuously fixed on such container or package.  9. Importation of pesticides prohibited without a permit Notwithstanding anything in any other Act, no person shall import any pesticide into Vanuatu unless – (a) such pesticide is a registered pesticide; and (b) a permit has been obtained under section 21 in respect of such importation.  17. Register of pesticide (1) It shall be the duty of the Registrar to keep a Register of pesticides, in which shall be entered the trade name of every pesticide registered, its chemical name, the approved common chemical name and percentage of active ingredients or acid equivalents, as appropriate, the name and place of business of the manufacturer and the supplier, and the name and place of	<b>Partial Equivalence.</b>  The Pesticides (Control) Act 1993 provides for prohibiting the import and use of pesticides and for registering them, but does not provide for managing them based on integrated pest management.	Amend the Pesticides (Control) Act 1993 to require the use of integrated pest management approaches.

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	<p>business of the importer....</p> <p>18. Approved pesticide (1) When the Committee issues a certificate of registration under subsection (1) of section 12, the Committee shall declare that pesticide to be an approved pesticide....</p> <p>21. Permit to import a pesticide (1) When any application received by the Committee under subsection (1) of section 10 is in respect of a permit to import any pesticide, the Committee may – (a) issue such permit; or (b) issue such permit subject to such terms and conditions the Committee may consider necessary under this Act; or (c) refuse to issue the permit and shall state the reasons for such refusal. (2) Subject to the provisions of this Act the Committee shall not issue a permit to import a pesticide under subsection (1), unless that pesticide is a registered pesticide....</p> <p>23. Permit to import a pesticide for research purposes Notwithstanding any provision to the contrary in this Act, if the Committee is satisfied that a pesticide when imported will be used solely for scientific research and evaluation purposes by any research organization, approved by the Committee, the Committee – (a) may restrict the use of such pesticide for research purposes; (b) may evaluate and approve the research proposals in respect of the pesticide; (c) may at its discretion waive all or any of the requirements under any provision of this Act in respect of import of a pesticide; and grant a permit authorizing the import of any specified quantity of pesticides or pesticide component for such research or evaluation purposes.</p> <p>25. Adulterated, decomposed or deteriorated pesticides No person shall manufacture, pack, distribute, sell or offer for sale or delivery within the country any pesticide which is adulterated or which has decomposed or deteriorated so as to be ineffective or</p>		

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	<p>dangerous or which is packed in containers which have deteriorated or have been damaged as to be dangerous in storage or use.</p> <p>26. Storage, transport and sale of pesticides in close juxtaposition with foodstuffs No person shall store, transport, sell or offer for sale any pesticide in close juxtaposition with foodstuffs, apparel or furnishings or in any such manner as would result in the contamination of such foodstuffs, apparel or furnishings.</p> <p>27. Advertisement of pesticides (1) Any written, printed or graphic material relating to and accompanying a pesticide when stored, transported, distributed, sold, offered for sale or delivered within the country shall include the substance of the particulars referred to in section 16. (2) It shall be unlawful to advertise any pesticide in a manner that is false, misleading or deceptive, and not justified by the conditions of its registration. (3) Any claim for a pesticide contained in any advertisement or device shall be in accordance with the label statements referred to in section 16, and not be contrary to the requirements of subsection (2) of this section.</p> <p>28. Storage of pesticides in bulk (1) No person shall store pesticides in bulk other than in a special store kept for that purpose which has been approved by the Committee. The store shall be kept locked when loading or unloading is not in progress. (2) A notice shall be displayed in a conspicuous position outside the store indicating the hazardous nature of its contents.</p> <p>29. Harvesting of crops No person shall harvest or offer for sale any food crops in which pesticides have been used if the minimum period of time as may be specified in the label or prescribed by regulations has not elapsed between such use and harvest, or if the food crops shall</p>		

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	contain pesticide residue in excess of levels as may be prescribed.		
<b>Key element (9)</b> Reduce reliance on synthetic chemical pesticides	No corresponding legal provision.	<b>No Equivalence.</b>  The Pesticides Act 1993 provides for prohibiting the import and use of pesticides and for registering them, but does not provide for reducing reliance on them.	Amend the Pesticides (Control) Act 1993 to require reducing reliance on synthetic chemical pesticides.
<b>Policy Principle 10:</b> Provide workers with safe and healthy working conditions and prevent accidents, injuries, and disease. Establish preventive and emergency preparedness and response measures to avoid, and where avoidance is not possible, to minimize, adverse impacts and risks to the health and safety of local communities.			
<b>Key element (1)</b> Provide workers with safe and healthy working conditions and prevent accidents, injuries, and disease	<p><b>Health and Safety at Work Act 1986</b></p> <p>2. Duties of employers to their employees</p> <p>(1) It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees.</p> <p>(2) Without prejudice to the generality of an employer's duty under the preceding subsection, examples of that duty are –</p> <p>(a) the provision and maintenance of plant and systems of work that are, so far as is reasonably practicable, safe and without risks to health;</p> <p>(b) arrangements for ensuring, so far as is reasonably practicable, safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances;</p> <p>(c) the provision of such information, instruction, training and supervision as is necessary to ensure, so far as is reasonably practicable, the health and safety at work of his employees;</p> <p>(d) so far as is reasonably practicable as regards any place of work under the employer's control, the maintenance of it in a condition that is safe and without risks to health and the provision and maintenance of means of access to and egress from it that are safe and without such risks;</p> <p>(e) the provision and maintenance of a working environment for his employees that is, so far as is reasonably practicable, safe, without risks to health, and adequate as regards facilities and arrangements for their welfare at work.</p> <p><b>Quarry Act 2013</b></p> <p>7 Obligation to remedy dangerous practice</p> <p>(1) If, in the opinion of an authorised officer, any quarry or any works, matter, thing or practice in or connected with quarrying operations is dangerous or defective that it may likely:</p>	<b>Full Equivalence.</b>	None required

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	<p>(a) to cause bodily injury to or be detrimental to the welfare or health of any person;... he or she must give notice in writing to the owner of the quarry or his or her agent or the foreman...</p> <p>(2) An authorised officer may require persons referred to under subsection (1) to remedy the defect or danger, either immediately or within such time as he or she may specify, and may order any work, or quarry operations to be suspended until the danger or defect is removed to his or her satisfaction.</p> <p>(3) On receipt of a notice, the quarry company, agent or foreman must comply with the notice or if he or she objects to it, must immediately state his or her objection in writing to the Commissioner...</p> <p>(4) The quarry company agent or foreman of a quarry must cease to use or operate the quarry if he or she is ordered by an authorised officer in writing to do so because of the danger or defect...and must withdraw all persons from the danger indicated by the authorised officer until the objection has been determined by the Commissioner.</p> <p><b>Petroleum Regulations 1997</b> 39. General Duties (1) A licensee must: (c) take all reasonable steps necessary to secure the safety, health and welfare of persons engaged in the operations or nearby to the operations who could be affected by them;...</p> <p><b>Public Health Act 1994</b> 113. Regulations The Minister may make regulations...with respect to:... (v) occupational diseases, occupational health and safety and health hazards in government, commercial and industrial establishments, including safe and healthy practices and methods to be observed in work places;...</p>		
<b>Key element (2)</b> Establish preventive and emergency preparedness	<b>Quarry Act 2013</b> 19 Issue of quarry permit ...(4) In addition to subsection (3), the holder of an aggregate prospecting permit must submit with the application all of the following information gathered during the prospecting phase:...	<b>Partial Equivalence.</b>  The Quarry Act 2013 requires an occupational Health and Safety Management plan as part of an application for a quarry permit and the Petroleum Regulations 1997 require licensees to submit an	Amend the EPCA 2010 to establish a system for preparedness and response to environmental emergencies.

<b>(A)</b> <b>ADB Safeguard Policy Statement</b>	<b>(B)</b> <b>Corresponding Legal Provisions<sup>1</sup></b>	<b>(C)</b> <b>Extent of Equivalence<sup>2</sup></b>	<b>(D)</b> <b>Recommended Gap-filling Measures to Attain Full Equivalence</b>
<p>and response measures to avoid, and where avoidance is not possible, to minimize, adverse impacts and risks to the health and safety of local communities.</p>	<p>(h) an occupational Health and Safety Management plan;...</p> <p><b>Petroleum Regulations 1997</b></p> <p>32. Operations documents to be submitted before commencing operations</p> <p>(1) A licensee must not start operations in any part of a licence area until the Commissioner has approved operations documents which apply to those operations and that part of the licence area.</p> <p>(2) Operations documents means the documents set out in subregulation (3).</p> <p>(3) A licensee must submit:</p> <ul style="list-style-type: none"> <li>(a) an Environmental Code of Practice; and</li> <li>(b) an Environmental Report; and...</li> <li>(d) an Emergency Response Manual,</li> </ul> <p>to the Commissioner at least two months before the proposed start of operations in the licence area. The application must state whether the documents submitted apply to conditions and operations throughout the licence area, or only to a specified part of it.</p>	<p>Emergency Response Manual. Other than these industry-specific requirements, there does not appear to be any national law or regulation that establishes a general requirement for preventing and preparing for emergencies.</p>	<p>Amend the EIA Regulations 2012 to require that an EMMP includes an emergency prevention and preparedness plan appropriate to the characteristics of the proposed project.</p>
<p><b>Policy Principle 11:</b> Conserve physical cultural resources and avoid destroying or damaging them by using field-based surveys that employ qualified and experienced experts during environmental assessment. Provide for the use of “chance find” procedures that include a pre-approved management and conservation approach for materials that may be discovered during project implementation.</p>			
<p><b>Key element (1)</b> Conserve physical cultural resources and avoid destroying or damaging them</p>	<p><b>Preservation of Sites and Artifacts Act 1965, as amended in 2008</b></p> <p>4. Classified site or object not to be destroyed modified or undergo deterioration</p> <p>(1) A person must not modify or destroy a classified site or classified object unless the Minister has given his or her prior written approval under section 3.</p> <p>(2) A person in possession of a classified site or classified object must inform the Council in writing of:</p> <ul style="list-style-type: none"> <li>(a) any proposed destruction or modification of the classified site or classified object; or</li> <li>(b) any thing that is likely to affect the physical condition or location of the classified site or classified object;...</li> </ul> <p>(4) The Minister may approve the modification or destruction of a classified site or classified object subject to such conditions as are specified in the approval.</p>	<p><b>Partial Equivalence.</b></p> <p>The Preservation of Sites and Artifacts Act provides for classifying physical cultural resources, and gives the Minister unqualified discretion to approve modifying or destroying them.</p>	<p>Amend the Preservation of Sites and Artifacts Act to provide criteria on the basis of which the Minister may authorize modifying or destroying classified physical cultural resources.</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions <sup>1</sup>	(C) Extent of Equivalence <sup>2</sup>	(D) Recommended Gap-filling Measures to Attain Full Equivalence
<p><b>Key element (2)</b> Use field-based surveys that employ qualified and experienced experts during environmental assessment.</p>	<p><b>EIA Regulations 2012</b></p> <p>6 Conduct of EIA (1) The EIA is to be undertaken under the direction of the Director by an independent consultant or independent team of consultants who are to be selected and appointed by the Director in consultation with interested parties... (2) A person carrying out an EIA on a project, proposal or development activity is expected to conduct fieldwork to obtain accurate measurements of environmental values for use in making impact predictions and recommending appropriate environmental protection measures in respect of the project, proposal or development activity.</p> <p>7 Preparation of EIA Report (3) An EIA report on a project, proposal or development activity must: (a) be carried out by an independent registered consultant or consultants nominated by the Director and under the direction of the Director...</p> <p>8 Contents of EIA Report (1) An EIA report must, to the extent appropriate, include:... (c) the identity of any person or persons who prepared or participated in the preparation of the terms of reference, with full contact details;...</p> <p>27 Registration of consultants (1) The categories of EIA consultant are: (a) principal consultant; (b) technical assistant; (c) assistant consultant; (d) review consultant. (2) The criteria for registration of a consultant are as determined by the Director... (4) A person who wishes to be registered as an EIA consultant for the purposes of this Regulation must submit an application to the Director:... (b) specify the category of consultancy applied for;... (5) If an application complies with subclause (4), the Director:</p>	<p><b>Full Equivalence.</b></p>	<p>None required</p>



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	<p>(a) may call for documents, interview the applicant and cause enquiries to be made as to his or her suitability for registration; (b) obtain advice from technically qualified persons as to the suitability of the applicant for registration;...</p> <p><b>Forestry Regulations 2004</b> Second Schedule 2. Environmental Impact Assessment ...(2) The Environmental Impact Assessment must be conducted by specialists approved by the Director of Forests in consultation with the Environment Unit in the Ministry of Lands, Geology and Mines and prepared according to the guidelines and standards specified by the Environment Unit.</p>		
<p><b>Key element (3)</b> Provide for the use of “chance find” procedures that include a pre-approved management and conservation approach for materials that may be discovered during project implementation</p>	<p>No corresponding legal provision.</p>	<p><b>No Equivalence.</b></p>	<p>Amend the EIA Regulations 2012 to require that an EMMP must provide for the use of “chance find” procedures for physical cultural resources, which include a pre-approved management and conservation approach for materials that may be discovered during project implementation.</p>