

THE LAW ON CONCESSIONS REPLACED BY THE LAW ON PUBLIC-PRIVATE PARTNERSHIPS

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On 12 July 2022, the General Department of Public-Private Partnerships under the Ministry of Economy and Finance (“MEF”) hosted a seminar on Dissemination of the Law on Public-Private Partnerships. The Law Public-Private Partnerships (“PPP Law”) has been adopted by the National Assembly on 25 October 2021 and approved by the Senate on 2 November 2021. According to the presentation, one of the objectives of the PPP Law is to set out the procedures of public-private investment projects, which will be eased and implemented systematically and transparently.

The PPP Law consists of 14 chapters, 49 articles and 2 annexes and lays out the following:

- **Project Cycle:** This involves the identification of an eligible project initiated by the Implementing Agency proposing to the MEF for the approval of such project by using the criteria as indicated under Article 9 of the PPP Law. Upon approval of the project, the procurement in order to select the Private Partner will be conducted by the Implementing Agency. The latter stages of the Project Cycle shall include the PPP contract negotiation, the approval of the PPP contract by the Royal Government, signing, implementation and management of the PPP contract.
- **Financial Support Mechanism by the Royal Government to the PPP Project:** The Royal Government provides support mechanisms that may include the following:
 - i. **Viability Gap Financing:** a subsidy provided to the Private Partner(s) to reduce its capital expenditure and at the same time increase the financial viability of the PPP project.
 - ii. **Availability Payment:** a subsidy to the Private Partner(s) if it is agreed that the public service fees paid by the public users are not sufficient, cannot, or should not be collected from the public users.
 - iii. **Government Contingent Liabilities:** guarantees to the Private Partner(s) or related entities in a situation to address potential impacts from unforeseen risks.
 - iv. **Asset Contribution:** contribution of state property to the PPP project.
 - v. **Investment Incentives:** policy or provisions in relation to investment incentives given to the PPP project.
- **Dispute Resolution:** The PPP Law allows parties to choose the jurisdiction in case disputes has arisen under the PPP contract. Should the mediation facilitated by the MEF is not satisfactory to the parties, the parties can choose to either continue their dispute in the Cambodian courts, the National Commercial Arbitration Centre of Cambodia (NCAC) or other international courts of arbitration.

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