

The Scheme, and Effects on Value

Foundations • The Valuation Engineer

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Formal definition. The *scheme*, a British and Commonwealth term for which United States law says *the project*, is the project or undertaking for which property is compulsorily acquired (taken by eminent domain, or condemned, in United States terms), together with the statutory authority for it, taken as the cause to which effects on value are attributed. A *value effect* is a difference between the property's value and the value it would have had under a stated counterfactual (a described state of the world that did not occur, such as the world without the project). *Scheme disregard* is the direction that value effects attributable to the scheme be left out of account (what United States practice calls the project-influence, or scope-of-the-project, rule).

Scheme in the journal's languages. *Equivalents are the term most used in the jurisdiction's own valuation or expropriation literature; where two are current, both are given.*

UK ENGLISH	the scheme (British and Commonwealth; in England and Wales the disregard is now the statutory no-scheme principle, Land Compensation Act 1961, s. 6A; elsewhere in the Commonwealth the Pointe Gourde rule)
AMERICAN ENGLISH	the project (its disregard is the project-influence, or scope-of-the-project, rule)
GERMAN	das Vorhaben (also das Unternehmen)
FRENCH	l'opération (also le projet)
SPANISH	el proyecto de obras (mod. la actuación)
PORTUGUESE	a obra (also o empreendimento)
JAPANESE	事業 (jigyō)
KOREAN	공익사업 (gongik saeop)
CHINESE (SIMP.)	建设活动 (jiànshè huódòng; statutory collective noun — no valuation term of art)
CHINESE (TRAD.)	興辦事業 (xīngbàn shìyè)
ARABIC	المشروع (al-mashrū'; Maghreb statutes: العملية)
TURKISH	imar ve hizmet teşebbüsü
RUSSIAN	объект (obyekt; no single term — statutory periphrasis, 3К ст. 56.8)

Value effect in the journal's languages. *Equivalents are the term most used in the jurisdiction's own valuation or expropriation literature; where two are current, both are given.*

UK ENGLISH	betterment / depreciation (statute: an increase or decrease in value attributable to the scheme)
AMERICAN ENGLISH	project influence (enhancement or diminution in value caused by the project; a diminution before the taking is also called condemnation blight)
GERMAN	die Wertänderung (Wertsteigerung / Wertminderung)
FRENCH	le changement de valeur (statute: plus-value only; moins-value is doctrine)
SPANISH	la plusvalía / la minusvalía
PORTUGUESE	a valorização / a depreciação (Pt. mais-valia)
JAPANESE	開発利益 / 価格の変動 (kaihatsu rieki / kakaku no hendō)
KOREAN	가격의 변동 / 개발이익 (gagyeok-ui byeondong / gaebal iik)
CHINESE (SIMP.)	增值 / 贬值 (zēngzhí / biǎnzhí)
CHINESE (TRAD.)	市價變動 (shìjià biàndòng)
ARABIC	الزيادة / القيمة في النقصان (the statutory pair; Egypt art. 17)
TURKISH	değer artışı / değer düşüklüğü
RUSSIAN	изменение стоимости (прирост / снижение)

Intuitive framing. In the simplest terms, the scheme (in United States practice, *the project*) is the project the government is taking the land for: a road, a railway, a reservoir, a redevelopment. The project usually changes the value of land around it, and the rule in many jurisdictions is that the owner is paid, broadly, what the land would have been worth had the project never existed — though, as below, jurisdictions differ on which effects are left out — so the appraiser must know what the scheme is in order to know what to leave out.

This entry concerns compulsory acquisition — expropriation, the taking of private property by the state, called eminent domain (or condemnation) in United States practice — and, within it, the project for which property is taken and the treatment of that project’s effects on value. It is written for appraisers valuing for compensation under such statutes.

The four entries preceding this one were about a single difficulty: the quantity an appraiser wants is not always the quantity the available data delivers. *Conditional Expectation* (entry 007) named the target. *Omitted Variable Bias* (008), *Endogeneity* (009) and *Parameter Identification* (010) described three ways of missing it.

This entry takes up the same difficulty, which here comes from the law rather than from estimation. It is worth stating it in estimation’s terms because an appraiser can meet it without recognizing what it is.

A value effect is a counterfactual quantity. To say that a motorway (in US terms, a freeway) added \$40,000 to a parcel is to compare two states of the world: the one that occurred, and one in which the motorway was never built. Only the first generates transactions. The second generates nothing, because it did not happen. The appraiser is asked for a difference between an observed world and an unobserved one.

In statistical estimation, a counterfactual raises two questions in sequence. The analyst first chooses the counterfactual — the quantity to be estimated — and defends the choice; only then comes the question of *Parameter Identification* (entry 010), whether the available data can determine it. Expropriation moves the first step out of the appraiser’s hands: **the law fixes the form of the counterfactual**, and a scheme-disregard provision is exactly that fixing — it names the kind of world against which value is to be measured. The law leaves the second question to the appraiser, who must still show that evidence from the world with the project — the only sales there are — can establish the value the land would have had without it.

The law chooses the counterfactual’s form, and what counts as the scheme is a question of law; how far the scheme extends is a question of fact, which the appraiser must take a position on and, if it is disputed, a tribunal (in the United States, the court or commission that hears the condemnation case) decides. That is why the boundary of the scheme is not a preliminary matter to be settled before the valuation begins. It *is* the valuation. Draw it in one place and an increase in value belongs to the owner; draw it one step wider and the same increase is left out of the award: the acquiring authority does not pay for it. Nothing about the land changes.

Where appraisers encounter it. Value effects come in four kinds, and confusing them is a frequent source of error.

1. Enhancement. The scheme raises value. Land near a proposed interchange gains because access will improve; land is rezoned because the project requires it. This is the effect every scheme-disregard rule addresses, and in some jurisdictions the only one. Argentina’s Ley 21.499, art. 10,¹ excludes “el mayor valor que pueda conferir al bien la obra a ejecutarse” — the increased value the work to be executed may confer — and says nothing about a decrease in value caused by the work.

¹Ley 21.499 (1977), art. 10 (*valor objetivo*; “No se pagará lucro cesante”; work-conferred increase excluded); InfoLeg, norma 37292, read in machine translation (Spanish), art. 10 read verbatim. [P]

2. Depreciation. The scheme lowers value. Announcement of a route (the line a road or railway will follow) depresses prices along it for years before any land is taken; a proposed use is unwelcome to the market. Where a rule is symmetrical it catches this too. Ontario’s Expropriations Act, s. 14(4)(b),² excludes any increase *or decrease* in value attributable to the scheme; the Czech expropriation act, § 10(5) of Act No. 184/2006 Sb.,³ likewise disregards appreciation and depreciation connected with the purpose of the expropriation. An appraiser who reads such a provision only as a rule against paying the owner for gains the project created will under-compensate a blighted owner (in US terms, one suffering condemnation blight: the announcement has already depressed the land’s value).

3. Effects on what is left. On a partial taking, the scheme acts on the remainder as well as on the part acquired: severance where the parcel is divided (the damage to retained land from being cut off from the part taken), and injurious affection where the works impair what remains (compensation for the fall in value of land the owner keeps) — together what United States practice calls *severance damages*, or damages to the remainder. In British and Commonwealth statutes these losses are paid under separate statutory heads. A head of compensation is a distinct category of loss that is paid for separately. Whether a disregard provision reaches the remainder is a question of the particular statute, and none of the instruments (in the wide sense of any formal legal text in force: a statute, decree or regulation, or a treaty) surveyed here says expressly whether its disregard rule applies to the remainder. The converse — where the works enhance what remains (in British usage *betterment* of the retained land; in United States practice *special benefits*) — raises the further question whether the gain is set off against (deducted from) the award; that too is a question of the particular statute.

4. Effects from something else entirely. Value moves for reasons that have nothing to do with the scheme — the general market, a different project, a policy unconnected to either. These are not scheme effects at all. To leave a general market rise out of the award would take part of the owner’s value without paying for it; to leave a general market fall out would pay for a loss the scheme did not cause. Establishing which category a movement falls into is the evidentiary heart of the exercise.

Two further statutory rules bear on the same question of which value effects are paid for: France’s and Poland’s. France fixes value at the date of the first-instance decision (the trial-level expropriation judge’s judgment) but considers only the actual use of the property one year before the opening of the public inquiry (the official public consultation that precedes the declaration of public utility; Code de l’expropriation, art. L. 322-2),⁴ so that a use adopted in anticipation of the project cannot be paid for. The same article then adds a disregard in terms: whatever the nature of the property, no account may be taken, even where sales record them, of *changements de valeur* since that reference date that were caused by the announcement of the works, by the prospect of changes to the land-use rules, or by public works carried out, in the three years before the inquiry, in the built-up area where the property lies. The word is *changes*, so the rule runs in both directions. Poland does the reverse of disregard: under arts. 134(3)–(4) of the Ustawa o gospodarce nieruchomościami,⁵ value follows the current use *unless* valuing the land for the use the

²*Expropriations Act*, RSO 1990, c. E.26, s. 14(4)(b) (scheme disregard); verified against ontario.ca e-Laws. [P]

³Act No. 184/2006 Sb., § 10(5) (purpose-connected appreciation and depreciation disregarded); verified at zakonprohidi.cz and re-read on the official e-sbirka.gov.cz, 19 September 2026. [P]

⁴Code de l’expropriation pour cause d’utilité publique, art. L. 322-2 (date of value; use one year before the public inquiry; final paragraph, changes in value caused by the announcement of the works); consolidated text at codes.droit.org (re-read on legifrance.gouv.fr, 19 September 2026), read in machine translation (French). [P]

⁵*Ustawa o gospodarce nieruchomościami* (UGN) of 21 August 1997, arts. 134(3)–(4) (higher-value conferral); verified at isap.sejm.gov.pl (ISAP consolidated text as at 3 August 2026). [P]

local plan assigns to it — the use the expropriation is for — yields more, in which case the owner receives the higher figure. Poland, in other words, hands the owner, by statute, the uplift from valuing the land for the use the expropriation is for.

The department states no view on which arrangement is preferable. The point for an appraiser is narrower and more useful: **the counterfactual is not a matter of appraisal judgment, and it is not the same everywhere.**

Worked appraisal example. *Goldmate Property Luddenham No. 1 Pty Ltd v Transport for NSW*⁶ shows the boundary doing the work.

Land at Luddenham, in western Sydney, was acquired for the M12 Motorway. Its value had risen sharply following a rezoning. The question was whether that uplift was a scheme effect — and the answer turned first on what “the scheme” was taken to be, and then on what had caused the rezoning within that frame.

The original determination took the wider frame — the Western Sydney infrastructure program at large, of which both the motorway and the new airport were parts. On that frame the rezoning was part of the scheme, its uplift was disregarded, and the land was valued as rural land.

The New South Wales Court of Appeal took the narrower frame, holding that the public purpose (the New South Wales statute’s term for the scheme) must be tied to the acquiring authority’s statutory function — here the M12 Motorway specifically — and remitted the matter (sent it back for redetermination — in US terms, remanded it). On remitter, the Land and Environment Court found that the rezoning had been driven by the *Western Sydney Airport*, not by the motorway. The airport was outside the scheme as the Court of Appeal had drawn it. The uplift therefore was not a scheme effect, and it was included in the compensation: an award of A\$38.35 million (Australian dollars) against an original determination of roughly A\$9.75 million.

Nothing about the land, the rezoning, or the market changed between the two results. What changed was where the boundary of the scheme was drawn — and, within the redrawn boundary, the finding that the airport rather than the motorway had driven the rezoning.

Why it matters for defensibility. A report that engages a scheme-disregard provision should state, in terms:

- (a) **the counterfactual adopted** — the state of the world against which value is measured, described specifically enough that another appraiser could apply it;
- (b) **the statutory basis for that counterfactual**, since it is prescribed rather than chosen, and its terms differ between jurisdictions;
- (c) **the extent of the scheme in time and scope**, with the evidence for the boundary, recognizing that what counts as the scheme is a question of law, and how far it extends is then a question of fact;
- (d) **which direction the rule runs** — enhancement only, or enhancement and depreciation;
- (e) **the attribution evidence** distinguishing scheme effects from general market movement and from other projects.

The failure mode is silence on (a) and (c). A report that says value has been estimated “disregarding the scheme” without saying which world it was compared with, or how far the scheme was taken to extend, has stated a conclusion and withheld the reasoning that produces it. Where the boundary is contested, that reasoning is the report.

⁶*Goldmate Property Luddenham No 1 Pty Ltd v Transport for NSW* [2026] NSWLEC 22 (Duggan J, i.e. Justice Duggan), Land and Environment Court of New South Wales, on remitter (in US terms, on remand), together with the New South Wales Court of Appeal decision of December 2024 that set aside the original determination, [2024] NSWCA 292; (2024) 116 NSWLR 233 (9 December 2024); read in English; commentary: Lander & Rogers; Colin Biggers & Paisley. [C]

Cross-references: 007 Conditional Expectation — the target quantity and its counterfactual character.

010 Parameter Identification — when an observed world does and does not determine an unobserved one.

Recent Court Decisions, this issue: Oceania (Goldmate); North America (Ontario); European Union (Poland, Czechia, France); South America (Argentina).

Addendum: Prolog Formalization

The following machine-readable companion (011-the-scheme.pl) formalizes this entry in the journal's Prolog knowledge base. It is also published as a browsable galley alongside this article.

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%% 011-the-scheme.pl
%%
%% Prolog companion to Foundations entry 011, "The Scheme, and Effects
%% on Value" (concept id: scheme).
%%
%% Records, for each instrument named in the entry, how it treats a
%% value effect attributable to the scheme. Every fact carries the
%% source against which it was verified for Vol. 1, No. 2.

:- module(the_scheme,
    [ scheme_rule/4, use_restriction/3, verified_source/2, check/0 ]).

% Portability: Scryer Prolog loads the list predicates on request and has
% no built-in forall/2 inside a module; for_all/2 below is the ISO
% definition, so the module runs unchanged in Trealla, SWI and Scryer.
:- use_module(library(lists)).

for_all(Cond, Action) :- \+ ( call(Cond), \+ call(Action) ).

% =====
% VOCABULARY
% =====

% Direction - which value effects the rule addresses.
valid_direction(enhancement).           % uplift only
valid_direction(enhancement_and_loss).  % uplift and depreciation
valid_direction(designation_uplift).    % uplift from the expropriation-
                                         % purpose designation only (narrower
                                         % than scheme enhancement at large)

% Treatment - what the rule does with the effect.
valid_treatment(excluded).              % left out of account
valid_treatment(conferred).             % given to the owner
```

```

% =====
% scheme_rule(Jurisdiction, Instrument, Direction, Treatment)
% =====

scheme_rule(ontario, 's. 14(4)(b), Expropriations Act',
             enhancement_and_loss, excluded).

scheme_rule(czechia, 'sec. 10(5), Act No. 184/2006 Sb.',
             enhancement_and_loss, excluded).

scheme_rule(argentina, 'art. 10, Ley 21.499',
             enhancement, excluded).

% France: the final paragraph of art. L. 322-2 disregards "changements de
% valeur" since the reference date caused by the announcement of the works,
% by the prospect of changes to the land-use rules, or by public works in
% the three years before the inquiry in the built-up area where the
% property lies. "Changes": both directions.
scheme_rule(france, 'art. L. 322-2, final paragraph, Code de l\'expropriation',
             enhancement_and_loss, excluded).

% Poland confers only the uplift from the designation consistent with
% the purpose of the expropriation (art. 134(4)) - not scheme-driven
% proximity or anticipation effects generally.
scheme_rule(poland, 'arts. 134(3)-(4), Ustawa o gospodarce nieruchomosciami',
             designation_uplift, conferred).

% =====
% use_restriction(Jurisdiction, Instrument, Restriction)
% =====
%
% France is recorded here as well as under scheme_rule/4: art. L. 322-2
% first restricts the USE that may be taken into account and fixes the
% valuation date, and only then, in its final paragraph, disregards
% scheme-caused changes in value. One article, two devices.

use_restriction(france, 'art. L. 322-2, Code de l\'expropriation',
                 'only the actual use one year before the opening of the public inquiry is considered').

% =====
% PROVENANCE
% =====

verified_source(ontario, 'Expropriations Act, R.S.O. 1990, c. E.26').
verified_source(czechia, 'zakonyprolidi.cz, Act No. 184/2006 Sb., consolidated; re-read on e-
    ↪ sbirka.gov.cz, 19 Sep 2026').
verified_source(argentina, 'InfoLeg norma 37292, Ley 21.499, art. 10, read verbatim').
verified_source(poland, 'ISAP consolidated text, UGN as at 2026-08-03').
verified_source(france, 'codes.droit.org, Code de l\'expropriation, art. L. 322-2, consolidated;
    ↪ re-read on legifrance.gouv.fr, 19 Sep 2026').

% =====
% CHECKS
% =====
%
% 1. Every direction and treatment is drawn from the declared vocabulary.
% 2. Every recorded rule and restriction has a verified source.
% 3. No instrument is recorded under both scheme_rule and use_restriction

```

```

%    (a jurisdiction may use both devices; each provision is classified once).

vocabulary_closed :-
    for_all(scheme_rule(_, _, D, T),
        ( valid_direction(D), valid_treatment(T) )).

all_sourced :-
    for_all(scheme_rule(J, _, _, _), verified_source(J, _)),
    for_all(use_restriction(J, _, _), verified_source(J, _)).

single_classification :-
    \+ ( scheme_rule(_, I, _, _), use_restriction(_, I, _) ).

check :-
    vocabulary_closed,
    all_sourced,
    single_classification,
    format("011-the-scheme: all checks passed~n", []).

```