

Resettlement Framework (Draft)

May 2017

MON: Regional Road Maintenance and Development Project

CURRENCY EQUIVALENTS

(as of 23 March 2017)

MNT 1.00	=	\$0.0004066
\$1.00	=	MNT 2,459.4

ABBREVIATIONS

ADB	–	Asian Development Bank
AP	–	Affected Persons
COMO	–	Community Outreach and Monitoring Officer
EA	–	Executing Agency
GRM	–	Grievance Redressing Mechanism
HH	–	Household
IA	–	Implementing Agencies
MRTD		Ministry of Road and Transport Development
RoW	–	Right- of-Way
RF	–	resettlement framework
RP	–	resettlement plan
PCU	–	Public Complaints Unit
PIU	–	project implementation unit
PPTA	–	project preparatory technical assistance

NOTES

- (i) The fiscal year of Mongolia and its agencies ends on 31 December.
- (ii) In this report, "\$" refers to US dollars and MNT refers to Mongolian togrog.

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2017 05-31 № 06/2469
танай _____-ны № _____-т

Хариу хүргүүлэх тухай

Танайхаас 2017 оны 05 дугаар сарын 24-ний өдрийн 1/31 тоот албан бичгээр ирүүлсэн Азийн хөгжлийн банкны Техник туслалцаа ТА8852-МОН “Бүс нутгийн авто замыг хөгжүүлэх болон засвар арчлалтын төсөл”-ийн хүрээнд боловсруулагдсан “Нүүлгэн шилжүүлэлтийн хүрээ” баримт бичгийн төсөлтэй танилцлаа.

“Нүүлгэн шилжүүлэлтийн хүрээ” баримт бичгийн төсөлд тусгайлан өгөх саналгүй байна.

Төсөл хэрэгжих шатанд гарч болох газар, чөлөөлөлт, нүүлгэн шилжүүлэлтийн үйл ажиллагаа болоод төслийн хүрээнд хэрэгжих бусад үйл ажиллагаанууд нь Монгол Улсын Засгийн газар болон Азийн хөгжлийн банк хооронд байгуулагдах Зээлийн гэрээнд заасан дүрэм, журмын хүрээнд хэрэгжих тул захиалагчаас тусгайлан АХБ-ны Хамгаалалтын бодлогын баримт бичгийн Хавсралт 2 буюу Хамгаалалтын бодлогын шаардлагын 2.6 болон 8 дахь хэсэгт заасныг хэрэгжүүлнэ гэдгийг баталгаажуулах шаардлагагүй байна.

АВТО ЗАМЫН БОДЛОГЫН
ХЭРЭГЖИЛТИЙГ ЗОХИЦУУЛАХ
ГАЗРЫН ДАРГА

Д.ДОРЖХАНД



Unofficial translation

Date: May 31, 2017
Reference: 06/2469
Subject: response to official letter

As per official letter dated on May 24 2017 with reference number 1/31 of your project, the draft Resettlement Framework for Regional Road Development and Maintenance Project has been reviewed and we have no comment on this document.

We are aware of the potential and acquisition land Resettlement activities as well as other activities planned under this project will be regulated and implemented by the ADB`s relevant policy and procedures and Mongolia`s national laws and regulations which will specified in the Loan Agreement to be signed between the Government of Mongolia and ADB.

Regards,

D. Dorjkhand
Director, Policy Implementation Department
Ministry of Road and Transportation Development

I. INTRODUCTION

1. Mongolia is a vast, sparsely populated country located between the People's Republic of China (PRC), and the Russian Federation. Rapid development of mining sector brought to the country economic growth but limited employment, the critical ingredient of inclusive economic growth. To promote inclusive economic growth, regional economic cooperation and trade, the country needs to develop its regional road network, trade and logistics infrastructure and thereby boost agriculture, agribusiness and tourism. To ensure sustainability of its transport infrastructure, it needs to establish an efficient road asset management system.

Table 1: Network Status

Administrative level	Paved		Unpaved			Total
	Cement Concrete	Asphalt concrete	Gravel	Improved	Earthen	
State	40	5,644	1,151	520	5,355	12,710
Local	55	667	565	452	34,089	35,828
Total	95	6,311	1,716	972	39,444	48,538

A. Outputs

2. The activities to be financed under **Output 1: Road condition and safety improved**. This output would preserve and improve two important regional road sections linking Mongolia's capital with the People's Republic of China and the Russian Federation (CAREC road corridor 4b). The first would improve 201.4 kilometers (km) between Nalaikh (25 km south of Ulaanbaatar) and Choir, including 184.8 km of surface dressing, 1.0 km of routine maintenance, 15.6 km of rehabilitation and construction of 3.5 km of climbing lanes within the existing right-of-way (ROW). The second would improve 118.1 km between Darkhan and Altanbulag, including 85.6 km of surface dressing, 5 km of asphalt concrete overlay, 27.5 km of routine maintenance and construction of 7 km of climbing lanes within the existing ROW. Approximately, \$26.7 million is to be allocated to maintenance requirements on these two roads, with the priority for implementation being Nalaikh–Choir.

3. The activities to be financed under **Output 2: Road asset management capacity and implementation improved**. This output would develop capacity in RAM and road funding, including maintenance planning and prioritization. Pilot performance-based maintenance packages would be designed and implemented. Training in maintenance, procurement and safeguards, and piloting of new technologies is also recommended. Implementation of improved methods would be demonstrated through a number of maintenance packages to be procured through national competitive bidding. The total estimated cost is \$10.7 million. Maintenance and rehabilitation contracts under this output are subject to ADB's technical, economic and safeguards due diligence to be financed by the loan.

4. The activities to be financed under **Output 3: Project preparation, supervision and implementation improved**. Capacity development in project supervision and implementation, including standard project supervision. Training in maintenance, procurement and safeguards, and piloting of new technologies is also recommended. Estimated cost is \$1.3 million.

B. Situation

5. The state roads and highways have a reserved width of 50 m on either side of the centerline which is owned by the state. Generally, no development or usage is allowed within this ROW. The result of the field investigations undertaken during the social assessment confirmed that the development and upgrading of the existing road will not involve any physical or economic displacement. The proposed climbing lanes are all located at unpopulated areas and lie within the existing ROW. Therefore, the activities proposed under **Output 1** have no LAR impacts. It is expected that the proposed maintenance works still to be identified under Output 2 will be of a similar nature to those identified already for Output 1. However, due to this unknown element, a Resettlement Framework (RF) has been prepared for the Project. Hence it is categorized “B” for Involuntary Resettlement (IR).

6. Further, no ethnic minorities will be affected by the road rehabilitation activities under **Output 1** and hence it is categorized as Category ‘C’ for Indigenous Peoples (IP) issues.

7. The RF establishes a policy framework for compensation eligibility and entitlements for all types of affected persons (APs). It outlines the necessary steps to prepare a satisfactory RP for project components that may have LAR impacts, and thereby establishes comprehensive mechanisms and procedures for the fulfillment of the due diligence requirements for projects with negotiated land acquisition based on contractual agreements. The RF stipulates arrangements for consultation and public participation, grievance redress, and monitoring and evaluation. RP will be prepared based on census survey, after the detailed engineering design and ground validation.

II. OBJECTIVES, POLICY FRAMEWORK AND ENTITLEMENTS

A. Objectives of the Resettlement Framework (RF)

8. The key objective of the RF is to fully reflect the policy objectives and relevant policy principles and safeguard requirements governing preparation and implementation of all project works; explain the general anticipated impacts of the subprojects and/or components to be financed under the proposed project; specify the requirements that will be followed for later project screening and categorization, assessment, and planning, including arrangements for information disclosure, meaningful consultation with measures to involve vulnerable groups including women, grievance redress mechanism, and where applicable, safeguard criteria that are to be used in selecting subprojects and/or components; describe implementation procedures, including budgets, institutional arrangements, and capacity development requirements; specify monitoring and reporting requirements; and specify the responsibilities and authorities of the borrower/client, ADB, and relevant government agencies in relation to the preparation, submission, review, and clearance of subproject safeguard documents, and monitoring and supervision of safeguard plan implementation. This RF is a government document reflecting Mongolia’s relevant laws and policies and ADB’s involuntary resettlement policy principles under ADB Safeguard Policy Statement (SPS) 2009.

B. Policy and Legal Framework

1. The Constitution of Mongolia (January 13, 1992)

9. Article 6 of the Constitution of Mongolia states that: The State may give for private ownership plots of land, except pasturage and land under public utilization and special use, only

to the citizens of Mongolia. This provision shall not apply to the ownership of the subsoil thereof. Citizens shall be prohibited to transfer the land in their ownership to foreign citizens and stateless persons by way of selling, bartering, donating or pledging as well to transfer it to others for possession and use without permission from competent State authorities.

2. The Civil Code of Mongolia (2002)

10. The Civil Code of 2002 provides a legal framework for land acquisition and resettlement as highlighted by the following provisions.

11. Negotiation is the main basis for the transaction between the state and the affected persons. They engage contractually as equal and autonomous legal entity and participate legally in the civil transaction (Article 1). Citizens and organizations, as well as *aimags*, the capital city, *soums* and districts are able to enter into civil legal relations with regard to objects of material and non-materials wealth and their acquisition and possession (Articles 6, 7 and 8). Chapter 10 of the Civil Code defines property and assets, including land and other immovable property. Chapter 11 details provisions for their possession by legal acquisition and Chapter 12 for property ownership by individuals and other legal persons. The Civil Code in Article 101 provides general terms for the possession, use and disposal of property (further elaborated in Articles 109 to 112), but refers to the subsequently enacted Land Law and Land Allocation Law regarding land ownership and possession. Several special provisions pertaining to common property ownership (Article 108), common property of family members (Articles 126 and 128) and easements (servitude) (Article 151) may be relevant to specific cases in the Project. Central to a negotiated agreement on transfer of land are the stipulations on contract in Chapter 15.

3. Land Allocation Law of Mongolia (2003); amendments (2005/08)

12. In the Land Allocation Law, the right of a landowner to dispose of owned land through sale “according to relevant procedures” (notarized contract) is guaranteed in Article 27. Possessors, according to Articles 35 and 38 of the Land Law, are also entitled to transfer their possession licenses via a notarized contract, but need to seek the approval of the governor of the *soum* or district.

13. Article 32 provides, “exchange or taking over land owned by citizens based on state special needs with compensation” and Article 37 provides, “ensuring the land ownership right of the citizen when exchanging or taking it over based on state special needs with compensation” specify the details of acquiring land under ownership. The law defines that land under ownership can be exchanged or taken over for three types of state special needs, namely: i) land for ensuring national defense and security; ii) land for scientific and technological tests, experiments, and for environmental and climatic permanent observations; and iii) land for national scale roads, lines and network, and other constructions and facilities.¹

¹ The Law on Land specifies 12 types of land for state special needs (Article 16). The first two state special needs land specified here are i) land for ensuring national defense and security and ii) land for scientific and technological tests, experiments, and for environmental and climatic permanent observations. These two are specified in the Law on Land. However, the third state special need specified here, i.e. land for national scale roads, lines and network, and other constructions and facilities, is not defined in the Law on Land. This conflicts with the Law on Land. Also, it should be given a consideration, if the land for roads, lines and networks and other associated structures, be it national or local scale, are for state special need or for common public use.

4. Land Law of Mongolia (Revised Version: June 7, 2002)

14. According to Article 3 of the Law of Mongolia on Land there are three main ways to gain access to land, including possession, ownership and usage:

Section 3.1.2: “to own land” means to be in legitimate control of land with the right to dispose of this land. This establishes private property of land for Mongolian citizens without time limits. Land allocation and the size of plots are tied to specific uses, including family needs and commercial use, and land or allocation must be included in land management plans of the respective administrative units. Family land is allocated once and for free; the size varies with the type administrative unit as well, being 0.07 ha in the capital city and *aimag* urban areas and 0.35 ha in *aimag* rural areas. Land for other uses may be allocated by sale or auction. Ownership rights must be registered in accordance with the Law on Registration of Property Ownership Rights and other related Rights;

Section 3.1.3: “to possess land” means to be in legitimate control of the land in accordance with purpose of its use and terms and conditions specified in respective contracts (persons with this right can now apply for the right of ownership). In this case the State retains ownership of the land. Possession may be limited in time (15 to 60 years), but renewed for another 40 years. Households, government organizations and companies and organizations may possess land and size limits apply for specific contractually determined uses. Contracts for possession must be registered in the national registry; and

Section 3.1.4: “to use land” means to undertake a legitimate and concrete activity to make use of some of the land’s characteristics in accordance with contracts made with owners and possessors of land. Land use rights are given to Mongolian citizens or foreign countries, foreign legal entities, foreign citizens and stateless persons, diplomatic missions and consulates, as well as resident offices of international organizations for 5 years and are renewable for 5 years at a time.

15. Unless otherwise provided by law, the following category of land shall be used for common purpose under relevant government agency’s control and regulation:

- (i) Pasture lands, water points in pasturelands, wells and salt licks;
- (ii) Public tenure lands in cities, villages and other settlements;
- (iii) Land under roads and networks;
- (iv) Lands with forest resources; and
- (v) Lands with water resources.

16. Mongolia does not have a dedicated and comprehensive Land Acquisition Law, as do other countries. Legal provisions regulating LAR must be derived mainly from the above-mentioned laws, as well as from provisions in other specialized laws, such as the Law on Auto Roads or the Mongolian Law on Water Supply and Sewerage System Utilities of Cities and Settlements. The acquisition of land for use by the Project is guided by the fact that in Mongolia the ability of the State to ‘take back land’ through invoking eminent domain is through Article 13 of the Land Law which defines land under roads and networks as ‘land outside cities, villages and other urban settlements’ (13.1). On the other hand, land of cities, villages and other urban settlements are defined in Article 12 of the Land Law to ‘include land under urban constructions and buildings and urban common tenure land’. Common tenure land includes ‘urban streets, squares, roads waste disposal and cleaning sites and other similar areas’ (12.1) where the law on eminent domain cannot be invoked. Article 3 of the Law on Auto Roads also defines as

national scale roads those which connect the capital city to *aimag* cities, *aimag* cities to *aimag* cities and *aimag* cities to border points and defines local scale roads as those which connect *soums*, districts, cities and urban settlements in the territory of the capital city and *aimags* (3.1.8). Consequently, the roads that are to be constructed under the Project, will come under land located outside cities, villages and other urban settlements as well as those which connect *aimag* cities to *aimag* cities and border point, which are objects of national scale and law on imminent domain can be invoked.

17. *Aimags*, the capital city, and *soums* may take land for special needs of the local government for the purposes referred to specific provisions and articles of the Land Law. Land belonging to any classification of the unified land territory can be taken for special needs. Article 18 of the Land Laws also indicates that Government shall pay compensation in the event of taking land for the state special needs with or without replacement.

18. Relevant level governors set the starting price at auctions of land possession and utilization certificates, according to a formula approved by the state central administrative organization. The price set during the land auction shall be considered the real value of the certificate. The Government shall determine the amount of fees to be charged for issuing, transfer and extension of certificates. The administrative fees for transfer of certificates and for extension of certificates shall be accumulated in the land protection and rehabilitation fund.

19. Article 43 of the Land Law also mentions the granting of Compensation for Withdrawal of Land in Possession With or Without Replacement Prior to Expiration of the Contract. Unless otherwise stated in the law or the contract, citizens, companies and organizations possessing land shall vacate it and transfer the concerned land into the jurisdiction of governors of relevant levels within 90 days of entering into force of the contract referred to in provision 42.3 of the law. The decision of withdrawal of land in possession with or without replacement and with compensation shall take into account the prior agreement with the land possessor and shall reflect the value of immovable constructions, other properties and the costs to vacate the land estimated at current prices. Compensation to be paid to the land possessor shall be transferred from the State central budget to governors of relevant levels when the contract referred to in provision 42.3 of this law is signed. Governors of relevant levels shall pay the compensation to the citizen, the company or the organizations that possessed the land, within 60 days after the contract is signed, unless stated otherwise in the contract referred to in provision 42.3 of this Law. The land possessor shall vacate the land within 30 days after receiving the compensation.

5. ADB Safeguard Policy Statement (SPS), 2009

20. The Bank's 2009 SPS outlines the Safeguard Requirements 2 with the following objectives: (i) avoid involuntary resettlement whenever feasible; (ii) minimize involuntary resettlement by exploring project and design alternatives; (iii) enhance, or at least restore the livelihoods of all displaced persons in real terms relative to pre-project levels; and (iv) improve the standards of living of the displaced poor and other vulnerable groups. Safeguard Requirements 2 covers physical displacement (relocation, loss of residential land, or loss of shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of (a) involuntary acquisition of land, or (b) involuntary restrictions on land use or on access to legally designated parks and protected areas. It covers whether such losses and involuntary restrictions are full or partial, permanent or temporary. Behind the Safeguard Requirements 2 are the following key principles:

- (i) **Principle No. 1:** Screen the project early on to identify past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks.
- (ii) **Principle No. 2:** Carry out meaningful consultations with affected persons, host communities and concerned non-government organizations. Inform all displaced persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programs. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land, and ensure their participation in consultations. Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns. Support the social and cultural institutions of displaced persons and their host population. Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase.
- (iii) **Principle No. 3:** Improve or at least restore, the livelihoods of all displaced persons through (i) land-based resettlement strategies when affected livelihoods are land-based where possible or cash compensation at replacement value of land when the loss of land does not undermine livelihoods, (ii) prompt replacement of assets with access to assets of equal or higher value, (iii) prompt compensation at full replacement cost for assets that cannot be restored, and (iv) additional revenues and services through benefit sharing schemes where possible.
- (iv) **Principle No. 4:** Provide physically and economically displaced persons with needed assistance, including the following: (i) if there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities, and extension of project benefits to host communities; (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (iii) civic infrastructure and community services, as required.
- (v) **Principle No. 5:** Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards. In rural areas provide them with legal and affordable access to land and resources, and in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing.
- (vi) **Principle No. 6:** Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.
- (vii) **Principle No. 7:** Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets.
- (viii) **Principle No. 8:** Prepare a resettlement plan elaborating on displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangement, monitoring and reporting framework, budget and time-bound implementation schedule.
- (ix) **Principle No. 9:** Disclose a draft resettlement plan, including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders. Disclose the final resettlement plan and its updates to affected persons and other stakeholders.

- (x) **Principle No. 10:** Conceive and execute involuntary resettlement as part of a development project or program. Include the full cost of resettlement in the presentation of project's cost and benefits. For a project with insignificant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation.
- (xi) **Principle No. 11:** Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout project implementation.
- (xii) **Principle No. 12:** Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.

6. Comparison of National Laws, Policies and ADB SPS, 2009

21. Table 2 below provides a comparison of Mongolian Law and ADB SPS 2009 on key LAR issues:

Table 2: Comparison of Mongolian National Laws and ADP SPS 2009

LAR Issues	Provision of Mongolian Law	ADB Policy requirement
Involuntary LAR	Invoking eminent domain is only legally recognized when taking back land for special needs of the State including roads, lines and networks and other objects of national scale (Land Allocation Law, Articles 32 and 37; Land Law, Articles 42 and 43). This law applies to the Project. Current practice by government in local scale projects entails a demand letter with threat of sanctions and offer of payment of compensation.	Eminent domain is generally recognized and subject to policy provisions aiming at avoiding and minimizing LAR and replacement of lost assets and rehabilitation of livelihoods. APs to be at least as well off as without project. (SPS, SR 2, para 5)
Negotiated LAR	The Civil Code of Mongolia is the legal basis for contractual agreements on the transfer of land in the ROW from APs to the government (Chapter 15, Articles 1, 6, 7, 8, 109 and 112, among others).	Recognition of negotiated contract based land acquisition (negotiated settlement), where there is a willing buyer and a willing seller, which is verified and documented by an independent third party (SPS, IR safeguards policy principle 6; SR 2, para. 25 states "A negotiated settlement will offer adequate and fair price for land and/or other assets. The borrower/client will ensure that any negotiations with displaced persons openly address the risks of asymmetry of information and bargaining power of the parties involved in such transactions. For this purpose, the borrower/client will engage an independent external party to document the negotiation and settlement processes").
Eligible APs	Licensed owners, possessors and users of land can transfer their titles to other legal persons recognized under the Land Law (Articles 35 and 38) and the Land Allocation Law (Article 27). Non-titled occupants of land as illegal possessors are not eligible to transfer the land occupied or receive compensation	Lack of formal legal title to land by any APs is not a bar to ADB policy entitlements. Titled, legalizable, i.e. persons who have claims to land that are recognizable under national laws, and non-titled APs are eligible to receive different entitlements. Titled and legalizable APs are entitled to compensation and rehabilitation. Non-titled APs are entitled to livelihood restoration, but

LAR Issues	Provision of Mongolian Law	ADB Policy requirement
	<p>(Land Law, Article 27.4). The Civil Code recognizes the right of a long-term non-owner occupant of ownerless immovable property (incl. land) to own it after 15 years, if registered in the State register (104.2).</p>	<p>may also receive replacement land. Non-titled APs are eligible for entitlements such that they are no worse off than before the project. All APs are entitled to compensation at replacement cost of non- land assets. (SPS, SR2, para 7-8). APs without possession or ownership license but occupying land in areas designated for land allocation or possession can be recognized as legalizable and thus are eligible for fair compensation and rehabilitation entitlements under the SPS. People who illegally occupy the designated project LAR sites after the cut- off are not eligible for compensation, and may be evicted at their own cost.</p>
Compensation for land	<p>Contractually agreed payment for land transferred to the government. Local practice applies the government land valuation tariff (Cabinet Resolution 103, 2003), but negotiates with APs as well. Replacement land can be provided if AP's entire land or large part thereof is acquired.</p>	<p>Land compensation at replacement cost based on land valuation at average market value, plus transaction costs, interest accrued, transition and restoration costs and other applicable payments. (SPS, SR2, para 10)</p>
Compensation for structures	<p>Contractually agreed payment for transfer of structures located on land acquired. The value of structures is determined at market rates, with depreciation deducted from gross value of the structure.</p>	<p>Valuation of structures is based on current market value, plus transaction costs, interest accrued, transition and restoration costs and other applicable payments, i.e. replacement cost of new construction of the structure without deduction of depreciation. APs can be permitted to salvage materials. (SPS, SR2, para 10)</p>
Joint property ownership	<p>The Civil Code recognizes common property ownership and family property rights (Articles 108, and 125-128). Common property ownership requires permission of other owners to dispose of part of the property (108.4). Family property includes 'other properties accrued since the marriage, notwithstanding in which name of spouses or family members the property is registered' (126.2.4). Disposal of immovable (incl. land) family property requires mutual agreement (128.1) and certified written permission from an adult family member (128.2).</p>	<p>No conflict with SPS. Joint signatures are encouraged.</p>
Easement (property servitude)	<p>Legal provision for easements or property servitude, allowing the use of another person's property for specific public or private purposes is permitted under local law; mutual agreement and payment of a fee are required (Civil Code, Article 151, Land Law, Article 48 and Land Allocation Law, Article 33).</p>	<p>No conflict with SPS.</p>
Rental of land or house	<p>The Civil Code, Chapter 25 regulates the lease of property, including land and</p>	<p>Lessee is considered a non-titled AP and eligible to receive entitlements based on the type and</p>

LAR Issues	Provision of Mongolian Law	ADB Policy requirement
	houses. If ownership is transferred the new owner incurs all rights and obligations of a lessor (Article 297). No provisions for lessee rights in case of land acquisition for a project, except that termination of a lease requires 3 months notice (Article 294.3)	degree of impacts.
Community and public resource losses	Affected community and public assets can be transferred through contractual agreement under the Civil Code. The cost of moving affected infrastructure is included in cost of civil works under the Project.	Common property resources or public structures and infrastructure affected by LAR are covered by the SPS provisions
Income and livelihood rehabilitation	No provisions in contractual agreements for transfer of property.	Assistance for economic and social rehabilitation due to loss of jobs, incomes and livelihoods, including (i) income compensation or support for the period of interruption of business or employment, and (ii) priority employment in project civil works, especially to poor and vulnerable households. (SPS, SR 2, para. 12)
Relocation and transaction costs	The Mongolian Law on State Registration of Property Allocation Rights and Other Related Rights requires payment of registration duties and service fees for the registration of immovable property with the State Administrative Authority in Charge of State Registration of Property Rights (Article 9). All registration and other fees, as well as cost of relocation, are responsibility of parties to a contract and can be included in a contract.	Relocation and transfer expenses, including fees for the registration of properties and other administrative charges, are part of the replacement cost of lost assets and included in compensation. SPS, SR2, para 10)
Grievance procedure	The Land Law refers disputes over land to the governors of administrative units and eventually the courts (Article 60). The Civil Code and Land Allocation Law refer various types of disputes to the courts.	An adequate grievance redress mechanism for affected people is required. SPS, SR2, para 29)
RP information disclosure and public consultation	No provision for public consultation and information disclosure. In practice, all cases involve a period of negotiation.	APs are to be fully informed and closely consulted on compensation and resettlement options. Draft, final and revised RPs are to be disclosed and discussed, as well as published on ADB's website. SPS, SR2, para 26-27)
Cut-off date	Not applicable	An eligibility cut-off date is to be set when the project is officially notified, the project area is delineated or the census of the AP population is taken, to prevent influx of non-eligible persons and land speculation. SPS, SR2, para 8)
Right of way	Per Mongolian Road Standard, international and state road and provincial/rural roads have a reserve width of 100m and 60m respectively	No conflict with SPS.

LAR Issues	Provision of Mongolian Law	ADB Policy requirement
	which are owned and maintained by concerned government agencies. The Project road which is classified as state road has a ROW which is generally clear of any obstruction including structures, crops and trees and had been kept as such. Temporary use of the ROW area is subject to approval of the concerned authorities.	
Notification period for vacating property and commencement of civil works	Time period for vacating a property may be defined in contract. Civil works commence in parallel with acquisition of property, but without defined waiting period.	Cash compensation and/or replacement of assets must be completed before displacement; LAR procedures must be completed and rehabilitation measures in place before commencement of civil works on the affected project. SPS, SR2, para 14)

7. Gap analysis between National laws and ADB SPS 2009

22. There are several significant policy gaps between the Mongolian legal framework and the ADB SPS with respect to LAR. According to Mongolian law or practice:

- (i) Non-titled occupants of land (without ownership or possession license), including lessees of land and structures, are not eligible for compensation and rehabilitation entitlements;
- (ii) Compensation for affected land is based on a government compensation tariff, not market rates, although there is room for negotiation with individual APs;
- (iii) A depreciation coefficient is applied in the valuation of affected structures;
- (iv) Income and livelihood rehabilitation is not normally considered in local LAR practice.
- (v) Transaction costs are not included in compensation payments;
- (vi) There are no project internal grievance procedures preceding dispute resolution by governors and the courts;
- (vii) Public consultation and information disclosure is not practiced;
- (viii) An eligibility cut-off date is not declared; and
- (ix) There is no limitation on commencement of civil works until after completion of all LAR procedures.

8. Involuntary Resettlement Safeguard Principles for the Project

23. To **bridge the gap** between Mongolian Law and ADB SPS, the following section provides a policy framework and entitlement provisions, which integrate both, while ADB policy requirements prevail in cases of discrepancies.

Eligibility and Entitlement

24. To establish a land acquisition and resettlement policy framework, with clear eligibility and entitlement provisions for the Project, which addresses the gaps between local laws or practice and the ADB SPS, the following measures will be adopted:

Adoption of a Negotiated LAR Practice

25. The Project will adopt a negotiated LAR practice involving contractual agreements negotiated between APs and the Land Administration Department on the basis of the Civil Code of Mongolia. The following safeguards will be observed:

- (i) All compensation and allowances will be determined and paid or provided as specified in the contractual agreements;²
- (ii) The APs, regardless of whether they are titled or non-titled, will not be served notices or demand letters regarding claims by the government to their properties;
- (iii) All LAR-related notification of APs and negotiation of agreements will be carried out by the Project staff and their government partners³, individual as well as in public consultations with the APs. The process of notification and consultations will be specified;
- (iv) All agreements will be certified by a notary and registered with the State Administrative Authority in Charge of State Registration of Property Rights. The parties to the contracts will retain their own legal copies;
- (v) Adequate grievance redress mechanisms will be established; and
- (vi) *Bagh* governors and land administrators shall assist in identifying, consulting, and formulating with APs and the Project staff special measures such as allocation of new plots and income restoration schemes for affected vulnerable persons.
- (vii) The negotiation process will be reviewed by an independent person/agency.

Eligibility to Compensation and Rehabilitation

25. All APs will be eligible for compensation and rehabilitation entitlements irrespective of their property status, including unlicensed occupants of land, and of the type of use of their property (residential, commercial, public or community).⁴

- (i) Unlicensed occupants of land in areas designated by GOM for past, present or future land allocation will be treated as legalizable APs and given ownership licenses for the remainder of partially affected land or, in the case of full loss of a plot of land, provided with replacement land and a license of ownership within 3 months of conclusion of a contractual agreement between the government and the AP. They will be registered with the State Administrative Authority in Charge of State Registration of Property Rights.⁵
- (ii) Affected land will be compensated either at replacement cost based on market rates for comparable land or the applicable government compensation tariff, whichever is higher, or, in the case of full loss of a plot of land, with replacement land, including land preparation and restoration of utility services (electricity, water etc.), as applicable. The District Land Administration Department will assist the APs to identify and approve the relocation plot. The loss of 50% or more of a plot is considered a full loss eligible for compensation for the entire plot, if the AP so desires.

² If feasible, the provision of employment in Project civil works to poor and vulnerable APs, if they desire so, will be included in the contracts.

³ The key government partners are the officers of the Aimag and Soum Land Administration Department and of the Property Relations Agency or other offices in charge of valuation of non-land immovable property.

⁴ Not applicable if the replacement of public structures (electricity, water supply lines, etc.) is covered under civil works contracts.

⁵ In the unlikely case of occupation of land by unlicensed occupants or AP in an area not designated for allocation of land, the AP will be provided with ownership of a new plot in a designated area and given the necessary assistance.

- (iii) Affected possessors, in case of partial loss of less than 50% of their land, will transfer their license for the affected plot to the GOM and retain the possessor license for the remaining plot. Their possessor licenses will not be cancelled or subject to automatic expiration. In case of a full loss of land they will be provided with a replacement plot and ownership licenses with state registration.
- (iv) Affected users of land with use licenses will be provided with replacement plots in similar locations suitable to business operations and new use licenses or, if possible and desired, with a license of ownership, within 3 months of conclusion of a contractual agreement between the government and the AP.
- (v) All APs agreeing to receive replacement land or APs with pending license approval for ownership or possession or APs with possession licenses seeking ownership status, will be provided with ownership licenses within 3 months of conclusion of a contractual agreement between the government and the AP and will be registered with the State Administrative Authority in Charge of State Registration of Property Rights.
- (vi) Affected structures⁶ will be compensated at replacement cost based on prevailing market rates for comparable types of structures without deduction of depreciation. Materials may also be salvaged by the APs.
- (vii) In cases of joint property ownership, the written notarized consent of the partners in a common property relationship or of an adult family member will be required.
- (viii) Temporary impact outside the Right of Way (ROW) due to construction disturbances will be handled through establishment of temporary property servitude (easement) by the government over the temporarily affected land based on an agreement with the APs on the purpose (removal of fence, construction activity for laying of pipelines and restoration of the land and fences), duration (construction period at specific site) and compensation fee.
- (ix) Land lessees, including those living in *gers*, shall be compensated for their relocation costs, including assistance in transporting the *ger*, and allocated a plot for possession or ownership,⁷ based on applicable laws or provided cash refund at rental fee rate and proportionate to duration of remaining lease period, if a plot isn't required.
- (x) Loss of income will be compensated through short-term financial compensation equivalent to the loss, i.e. for the period of interruption of business or employment. Vulnerable and poor households will also be provided with employment opportunities at commensurate skill levels by the Project as available.⁸
- (xi) All relocation, transfer and transaction expenses (fees and duties) will either be waived by government or included in the contract price of the affected properties.

26. The Project will establish an accessible and responsive project internal grievance procedure. ADB SPS information disclosure and public consultation provisions will be observed. An eligibility cut-off date will be set for each project component with LAR impact at the time of the AP census and detailed measurement of affected land and property.

27. All affected assets will be compensated at replacement cost based on market value for comparable assets estimated by the valuation team including resettlement specialist, valuation specialist from Property Relations Department and Land Affairs Department of Ulaanbaatar and representatives of affected entities and agreed with affected persons. The PIU will be responsible

⁶ Including houses, fences, sheds, latrines, garages and other immovable structures built on affected land.

⁷ If an AP is not eligible for ownership or possession, a license for land use will be given.

⁸ If the required skills are not available, the contractor will provide basic training to the employed APs.

for follow-up actions and facilitation of the process for estimation of replacement values for land and non-land assets and losses.⁹

28. Civil works on the affected sections of the projects where LAR is required shall not commence unless all compensation, relocation and construction activities have been completed and short-term financial assistance for loss of income has been paid.

Avoidance and minimization of IR

29. All rehabilitation and maintenance activities will have no physical or economic displacement. The road will be rehabilitated and maintained within the ROW and will ensure to avoid impact on community/ households living close to the ROW. However, before commencement of civil work, each rehabilitation work will reconfirm the categorization. The design and implementation of the project sections will make every effort to avoid and minimize land acquisition and resettlement impacts, including temporary impacts during construction.¹⁰ PIU and EA should act responsible for avoiding any potential involuntarily resettlement and exclude Category A. According to ADB' s Safeguard Categorization, if a proposed project is likely to have significant involuntary resettlement impacts, it will be categorized as a Category A project. In that case, a resettlement plan, which includes assessment of social impacts is required. Category B project includes involuntary resettlement impacts that are not deemed significant. A resettlement plan, which includes assessment of social impacts is also required.

III. SOCIOECONOMIC INFORMATION

A. Procedure for Preparation of Land Acquisition and Resettlement Plan

30. During construction if there are any temporary or permanent impacts on assets of individual households, or community assets, causing physical and economic displacement, the PIU needs to undertake studies and surveys to prepare a resettlement plan. The resettlement plan should be structured as per the outline in **Appendix 1**. The process to undertake these surveys to identify and determine scope of impacts is as follows:

- (i) Identification of scope of project impact and categorize it as A, B or C;
- (ii) Field verification and modification of design of infrastructure facility, as far as technically feasible, to avoid and minimize LAR impact;
- (iii) Socio-economic sample¹¹household survey and identification of vulnerable households/persons;
- (iv) Consultation with all affected households with special focus on women headed and vulnerable households
- (v) Census of all APs and inventory of affected land, property and income losses,
- (vi) Inventory of all losses and valuation of each asset based on market replacement value
- (vii) Notification of cut-off date and notification of APs with new notification form of Land Administration Department to be designed in cooperation with LAR Project staff;

⁹ In case of disagreement over the compensation rates during the negotiation with Aps, the PIU will be able to engage an independent private valuation specialist and re-assess the compensation rates offered to the Aps and disclose the results to the APs.

¹⁰ In case of temporary disruption to services (local roads, water, electricity, telephone) these services will be restored within 48 hours or temporary alternative solutions to provide these services for the time of construction impact will be provided.

¹¹ Survey of least 10% of affected people and 20% of seriously affected people.

- (viii) Preparation of draft RP as per the annexure 1 of this framework
- (ix) Disclosure of Draft RP and formal consultation meetings with APs;
- (x) Negotiation of contracts with individual APs;
- (xi) MRTCUD endorsement and submission to ADB for review and approval;
- (xii) Disclosure of approved RP (locally and on ADB website); and
- (xiii) Implementation of RP.

IV. CONSULTATION, PARTICIPATION AND DISCLOSURE

31. Meaningful consultation is a process that (i) begins early in the project preparation stage and is carried out on an ongoing basis throughout the project cycle; (ii) provides timely disclosure of relevant and adequate information that is understandable and readily accessible to affected people; (iii) is undertaken in an atmosphere free of intimidation or coercion; (iv) is gender inclusive and responsive, and tailored to the needs of disadvantaged and vulnerable groups; and (v) enables the incorporation of all relevant views of affected people and other stakeholders into decision making, such as project design, mitigation measures, the sharing of development benefits and opportunities, and implementation issues.

32. As part of socio economic survey census and preparation of the RP, APs will be fully informed, closely consulted, on both positive and negative impacts of the project. EA and IA will closely engage and interact with affected households on issues of land acquisition and resettlement, including the final design of the corridor, determination of prices for assets to be transferred, selection of replacement plots and the restoration of livelihoods. The process of consultation will continue during the entire project cycle, till the completion of the project.

33. Information to and consultation with APs at an early stage ensures that they can express their opinions, apprehensions and objections. Project proponents, MRTD and the Project Implementation Unit (PIU), should address the issues raised and, upon careful consideration, incorporate them in the final design and RP, in so far as they are compatible with applicable local law and the ADB SPS. Thereby, delays in implementation due to unforeseen conflict can be avoided. All consultations will be documented giving details of the location of consultation, number of households participated, major issues emerged and how project plan to address the same.

34. The consultation and public disclosure process for resettlement impact will at minimum involve the following steps:

- (xiv) Individual consultations with APs during and after the census and socio-economic survey and notification of individual APs as well as cut-off date;
- (xv) Public consultation meeting with all APs to disclose the draft RP, including eligibility and entitlements, grievance procedures and monitoring, and to discuss changes and other concerns of the APs and other stakeholders;
- (xvi) Continued individual consultations to prepare contract negotiations and address individual concerns;
- (xvii) Individual negotiations of contract terms with AP households;
- (xviii) Public consultation meeting with all APs to disclose approved RP and to announce the date, venue, and time of the payment of agreed property transfer prices and other compensation or entitlements;
- (xix) Additional individual and public consultation meetings will be held throughout the planning and implementation of the RP as required by any issues arising; and
- (xx) Attendance lists of all public consultations will be maintained by the PIU and made publicly available

35. Disclosure of RP is mandatory on part of EA and PIU and will ensure that summary of the RP is available to the households in the local language which is easily understood by them. During disclosure of the draft and final RP, their rights and entitlements shall be fully explained to the APs. RPs will be presented to APs in Mongolian, endorsed by the EAs, i.e. the respective Aimag Governments, and English versions submitted to ADB for review and acceptance. Each RP will list the public consultations conducted and planned. Each RP will be disclosed on the ADB website (Mongolian and English versions).

V. COMPENSATION, INCOME RESTORATION, AND RELOCATION

36. Cash compensation and other entitlements will be provided to each affected person by the EA/PIU before taking possession of their land/properties. Also EA/PIU will ensure the status of affected household is either same or better compared to pre project status, both in terms of social and economic status.

37. The payment for compensation will be guided by the following principles:

Table 3: Entitlement Matrix

Type of Loss	Specification	Eligibility	Compensation Entitlement
LAND (residential/ commercial/public/ communal)	Partial loss of plot (<50%)	Owner, possessor ¹²	<ul style="list-style-type: none"> Cash compensation at market rates or the government compensation tariff, whichever is higher, based on contractual agreement All taxes, registration and transfer costs are waived or included in compensation price
		Legalizable occupant of land	<ul style="list-style-type: none"> Ownership license and State registration for remaining land will be provided by government¹³ All taxes, registration and transfer costs are waived or included in the compensation price
		User	<ul style="list-style-type: none"> Continuation of use license on the remaining land
		Lessee	The AP may choose between the following alternatives: <ul style="list-style-type: none"> Allocation of plot with ownership license and State registration All taxes, registration and transfer costs are waived or included in compensation price OR <ul style="list-style-type: none"> Cash refund at rental fee rate and proportionate to duration of remaining lease period
	Full loss of plot (=>50%)	Owner, possessor	The AP may choose between the following alternatives: <ul style="list-style-type: none"> Land for land compensation through provision of replacement plot of comparable value and location as lost plot; Ownership license and State registration OR <ul style="list-style-type: none"> Cash compensation at market rates or the government compensation tariff, whichever is higher, based on contractual agreement;

¹² If the remaining land is smaller than 350m², the AP may opt to receive a new replacement plot instead of cash compensation and will give up the entire old plot.

¹³ If unlicensed AP has occupied more than 700m² of land (legal allocation limit per person in urban areas), the balance land, if any may be either owned and registered in the name of the family member or bought from the government at the government land tariff. A landowner already owning 700m² may acquire the balance as additional possessed land.

Type of Loss	Specification	Eligibility	Compensation Entitlement
			<ul style="list-style-type: none"> All taxes, registration and transfer costs are waived or included in compensation price.
		Legalizable occupant of land	<ul style="list-style-type: none"> Land for land compensation through provision of replacement plot of comparable value and location as lost plot; Ownership license and State registration All taxes, registration and transfer costs are waived or included in compensation price
		User	<ul style="list-style-type: none"> Replacement plot with use license OR if feasible and desired Ownership license and State registration; All taxes, registration and transfer costs are waived or included in compensation price
		Lessee	<p>The AP may choose between the following alternatives:</p> <ul style="list-style-type: none"> Allocation of plot with ownership license and State registration All taxes, registration and transfer costs are waived or included in compensation price <p>OR</p> <ul style="list-style-type: none"> Cash refund at rental fee rate and proportionate to duration of remaining lease period
STRUCTURES (residential/commercial/public/community ¹⁴)	Moving back of fences	Owner, possessor, legalizable occupant of land	<p>The AP may choose between the following alternatives:</p> <ul style="list-style-type: none"> Cash compensation for relocation of fence at market rate without deduction of depreciation, based on contractual agreement <p>OR</p> <ul style="list-style-type: none"> Replacement/reconstruction of the fence by the Project owner/contract
	Alteration to structure	Owner, possessor, legalizable occupant of land	Cash compensation for lost part of structure and reconstruction of remaining structure at market rate without deduction of depreciation, based on contractual agreement
	Full loss of structure and relocation	Owner, possessor, legalizable occupant of land	Cash compensation for replacement of lost structure at market rate without deduction of depreciation, based on contractual agreement
	Moving or relocation of ger	Owner, possessor, legalizable occupant of land, lessee	Cash compensation for cost of taking down and raising of ger and for transport, as applicable; to be included in contractual agreement
Temporary disturbance	Removal of fence, civil works on land outside ROW, restoration of land and fences	Owner, possessor, legalizable occupant of land	<ul style="list-style-type: none"> Cash compensation fee stipulated in agreement on temporary servitude All taxes, registration and transfer costs are waived or included in compensation price Access to land and residences Fences will be moved by civil works contractor
Businesses	Any business loss due to LAR or construction activities by Project	All APs so affected	<ul style="list-style-type: none"> Cash compensation equal to income during interruption period to be included in contractual agreement
Employment	Any employment loss due to LAR or construction activities	All laid-off employees of affected businesses	<ul style="list-style-type: none"> Cash compensation for lost wages for the period of interruption of employment; to be included in

¹⁴ 'Residential' refers to any structure used as a private dwelling, including houses and *gers*. 'Commercial' refers to any structure used for business and manufacturing activities, including small shops, factories, offices, workshops and garages.

Type of Loss	Specification	Eligibility	Compensation Entitlement
			contractual agreement between employer and project. ¹⁵
Other provisions	Specification	Eligibility	Compensation entitlements
Relocation	Transport/transition costs	All APs to be relocated	<ul style="list-style-type: none"> Provision of allowances to cover transport costs on actual cost basis at current market rates; to be included in contractual agreement Assistance to find an alternative plot or to find comparable house to rent, as applicable
Vulnerable AP (refer to definition of terms)	Permanent loss of livelihood	All vulnerable Aps	<ul style="list-style-type: none"> Preferential employment in project-related workforce Short-term cash assistance up to a maximum of 6 months at guaranteed lowest living level and assistance in reconstitution of business or employment
	Loss of land	All vulnerable Aps	<ul style="list-style-type: none"> Assistance with preparation of contracts and administrative process of land transfer
	Loss of structure	All vulnerable Aps	<ul style="list-style-type: none"> Assistance with house construction (minimum standard guaranteed), registration of property titles, relocation expenses, minimum housing guarantee
	Temporary disturbance	All vulnerable Aps	<ul style="list-style-type: none"> Priority attention given to the issue to avoid or mitigate as quickly as possible
Unidentified Losses	Unanticipated impacts	All Aps	<ul style="list-style-type: none"> To be identified during project component implementation; measures will be formulated as appropriate per ADB's SPS and reported to ADB prior to implementation.

VI. INSTITUTIONAL ARRANGEMENTS

38. IA will establish a Project Implementation Unit (PIU). PIU will be responsible for preparation and implementation of RP. PIU will recruit of a social development specialist who will handle all issues related to social and resettlement safeguard issues, in collaboration with Resettlement Consultant of the PMC. PIU will screen output 2 components and prepare a RP as necessary based on RF. Moreover, at each aimag level, PIU will engage a field Community Outreach and Monitoring Officer to assist the social and environment unit in implementation of the resettlement plan. The PIU at MRTD will be responsible for managing the RP implementation. Supported by the MRTD, a satisfactory RP will have to be prepared by PIU with the assistance of Consultant. Review and acceptance of the RP by both PMU and ADB is required, prior to any land acquisition and resettlement or the commencement of related civil works.

39. The PIUs will conduct training workshops to ensure that all members of project team are fully informed about the ADB's SPS, this RF and the implementation of the RPs.

40. The main activities of the PIU in respect of resettlement are as follows:

- (i) Participate in public consultation meetings;
- (ii) Inform and update APs on the implementation schedule and other LAR related activities requiring AP participation;
- (iii) Inform APs about the grievance procedure;

¹⁵ The contract will stipulate the continuation of wage or salary payments by the employer to the employees. This will be monitored by the PIU and by external project monitors.

- (iv) Remind and assist the APs to prepare all the necessary documents pertaining to the preparation of contractual agreements and payment of compensation, i.e. licenses of possession or ownership and transfer agreements for land;
- (v) Inform the APs about the schedule of payments, relocation arrangements, if any, and the commencement of civil works once the compensation and entitlement estimates have been completed for each AP;
- (vi) Validate the inventory of affected assets, and negotiate contractual agreements with the affected households;
- (vii) Once the AP agrees, contractual agreements indicating the negotiated terms for each AP will be prepared and signed by the concerned AP, and notarized by a registered notary. After completing all the necessary agreements, the PIU will inform the APs about the date, venue, and time of the payment of agreed property transfer prices and other compensation or entitlements;
- (viii) The PIU will work with APs and the Soum and facilitate communication and monitoring the LAR process;
- (ix) Provide an updated land management map prepared by the Aimag LAD indicating all lands that are eligible for ownership to APs to be relocated and assist the process of allocation of land ownership to these APs;
- (x) Facilitate the process of consolidation, review, approval and allocation of compensation for the project components' APs by the aimag or soum land administrations and governors, as well as the MRTD.

VII. BUDGET AND FINANCING

41. The total LAR implementation cost including the cost of compensation, administration and monitoring is an integral part of the Project cost. RP will include a budget section with a table of costs for all compensation expenses including administration and contingencies. Unit rates for each compensated item and the methodology for their calculation must be briefly indicated. The budget may be revised periodically, if needed, by the experiences of the LAR process and changes in the prevailing asset values.

42. Finances for compensation, allowances and administration of RP implementation will be provided by the MRTD or Aimag Government in a timely manner, as counterpart funds.

VIII. GRIEVANCE REDRESS MECHANISM

43. A grievance redress mechanism (GRM), consistent with the requirements of the ADB Safeguard Policy Statement (2009) will be established to prevent and address community concerns, reduce risks, and assist the project to maximize environmental and social benefits. In addition to serving as a platform to resolve grievances, the GRM has been designed to help achieve the following objectives: (i) open channels for effective communication, including the identification of new environmental issues of concern arising from the project; (ii) demonstrate concerns about community members and their environmental well-being; and (iii) prevent and mitigate any adverse environmental impacts on communities caused by project implementation and operations. The GRM is accessible to all members of the community. In case the AP is not satisfied with the decision, s/he may approach Mongolian legal system for redress. Grievances will be reported in social monitoring reports to be reviewed by the ADB.

1. Proposed Grievance Redress System

44. The proposed GRM follows the existing approach taken for managing complaints about local issues by members of the public in Mongolia. Residents' complaints or concerns are generally taken to bagh or soum representatives for resolution, therefore this system is proposed for the GRM. The GRM approach also fits with the aimag's existing approach to managing complaints for the public, which is focused on taking complaints to soums. The aimag government confirmed their support for the approach presented in this. The GRM is for both the affected people and beneficiaries.

45. In its capacity as the Implementing Agency (MRTD), will in consultation with the PIU, establish soum based Public Complaints Unit (PCU) in conjunction with local government. The PCU will be established, within the PIU of the IA, prior to construction to deal with complaints from affected people (AP) throughout implementation of the Project.

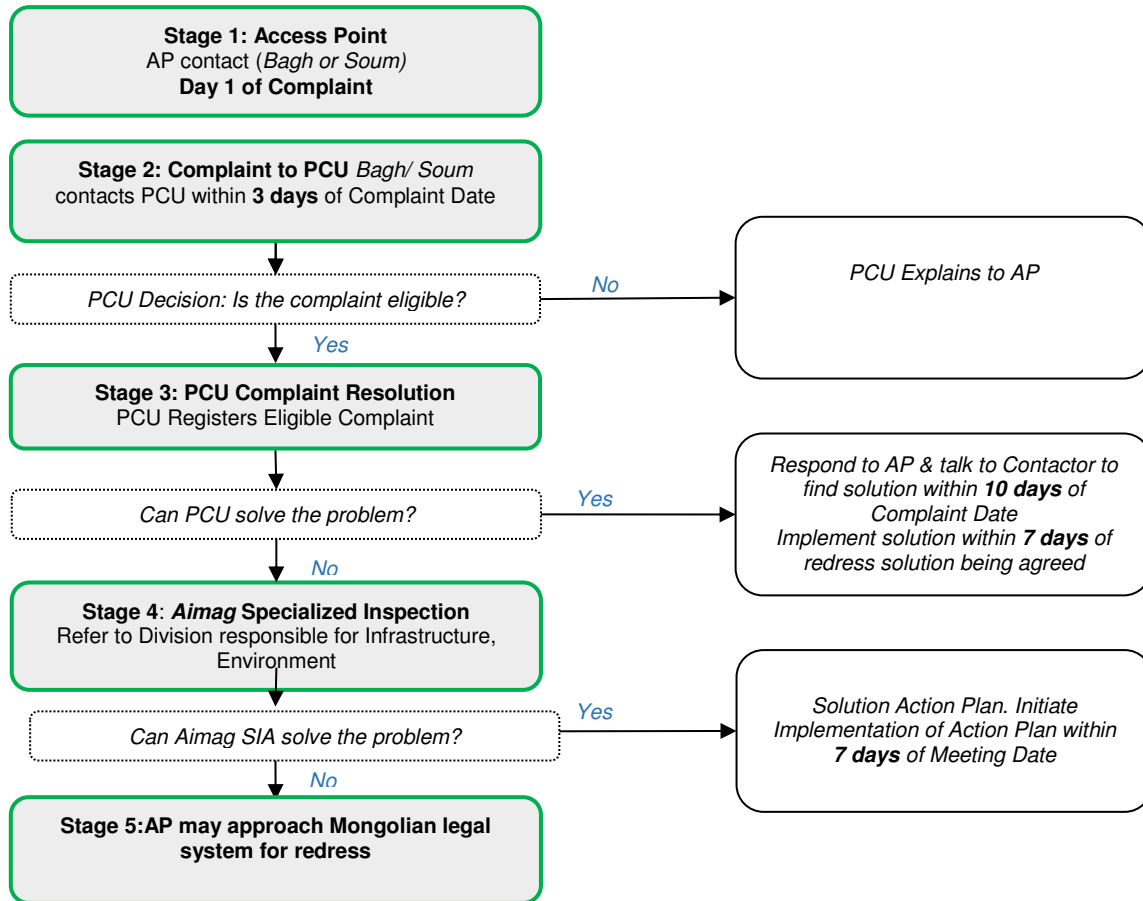
46. Soum based Community Outreach and Monitoring Officers (COMO) will be responsible for ensuring the implementation of the GRM at a local level and will staff the PCU. They will be the key contact point for residents who want information about the project or who have an issue they would like to discuss. The PIU and soum based COMO will issue public notices to inform the public within the project area of the Grievance Redress Mechanism. The PCU's phone number, fax, address, email address will be disseminated to the people through displays at the respective offices of the bagh, soum and aimag government administrations and public places.

47. The soum based COMO will have facilities to maintain a complaints database and communicate with the PIU, Site Engineers, Supervising Engineer, PIU, Governors of *aimags*, *soums*, and *baghs*.

2. GRM Steps and Timeframe

48. Procedures and timeframes for the grievance redress process are as follows and shown in Figure 1.

Figure 1: Proposed Project GRM



Stage 1: Access to GRM. If a concern arises, the AP may resolve the issue of concern directly with the contractor/operator however is the issue is not successfully resolved, the AP will make his/her complaint known to either the *bagh* or *soum*, whichever level of authority he/she is most comfortable with;

Stage 2: Official Complaint to PCU. The *bagh/soum* representative will submit an oral or written complaint to the PCU within 3 days. For an oral complaint the PCU must make a written record. For each complaint, the PCU must assess its eligibility. If the complaint is not eligible, e.g. related to an issue outside the scope of the project, PCU will provide a clear reply within five working days to the AP.

Stage 3: PCU Complaint Resolution. The PCU will register the eligible complaint. Together, the members of the PCU, facilitated by the PIU-Social Development specialist will take steps to investigate and resolve the issue. This may involve instructing the Contractor to take corrective actions. The complaint investigation will require close collaboration of the PCU members. Within 7 days of the redress solution being agreed upon, the contractors during construction and the IAs/operators during operation should implement the redress solution and convey the outcome to the PCU;

Stage 4: Aimag Specialized Inspection Agency (ASIA). If the PCU together with PIU Social Development Specialist cannot resolve the problem, and the AP is unsatisfied, the PCU will set up a meeting with the *aimag* Specialized Inspection

Agency's Division responsible for Infrastructure, Environment and Mining inspection. If a solution from the ASIA is found, it will be implemented.

Stage 5: if the APs are still not satisfied with the outcome in Stage 4, they can go through local judicial proceedings. Alternatively, the AP may refer to ADB's Accountability Mechanism 2012. The Accountability Mechanism is the "last resort" for dealing with problems and noncompliance that were not prevented or solved at the project and operational level.

IX. MONITORING AND REPORTING REQUIREMENTS

49. Borrowers are required to implement measures in the relevant safeguard plans, as provided in the legal agreements, and to submit periodic monitoring reports on their implementation performance. ADB will require borrowers/clients to: (i) establish and maintain procedures to monitor the progress of implementation of safeguard plans, (ii) verify the compliance with safeguard measures and their progress toward intended outcomes, (iii) document and disclose monitoring results and identify necessary corrective and preventive actions in the periodic monitoring reports, (iv) follow up on these actions to ensure progress toward the desired outcomes, (v) retain qualified and experienced external experts or qualified NGOs to verify monitoring information for projects with significant impacts and risks, (vi) use independent advisory panels to monitor project implementation for highly complex and sensitive projects, and (vii) submit periodic monitoring reports on safeguard measures as agreed with ADB. Monitoring of compliance with RPs and RF during implementation will be carried out by the PIU. PIU will conduct their own internal monitoring of RP implementation and submit quarterly reports to the MRTD and internal monitoring will aim to ensure: i) Proper implementation of RP; ii) Monitoring of consultation and participation process; iii) payment of compensation and other entitlements; iv) timely grievance addressing. The PIU will include the results of internal LAR monitoring in semi-annually reports submitted to ADB,

OUTLINE OF A RESETTLEMENT PLAN

1. This outline is part of the ADB SPS Safeguard Requirements 2. A resettlement plan is required for all projects with involuntary resettlement impacts. Its level of detail and comprehensiveness is commensurate with the significance of potential involuntary resettlement impacts and risks. The substantive aspects of the outline will guide the preparation of the resettlement plans, although not necessarily in the order shown.

A. Executive Summary

2. This section provides a concise statement of project scope, key survey findings, entitlements and recommended actions.

B. Project Description

3. This section provides a general description of the project, discusses project components that result in land acquisition, involuntary resettlement, or both and identify the project area. It also describes the alternatives considered to avoid or minimize resettlement. Include a table with quantified data and provide a rationale for the final decision.

C. Scope of Land Acquisition and Resettlement

4. This section:

- (i) discusses the project's potential impacts, and includes maps of the areas or zone of impact of project components or activities;
- (ii) describes the scope of land acquisition (provide maps) and explains why it is necessary for the main investment project;
- (iii) summarizes the key effects in terms of assets acquired and displaced persons; and
- (iv) provides details of any common property resources that will be acquired.

D. Socioeconomic Information and Profile

5. This section outlines the results of the social impact assessment, the census survey, and other studies, with information and/or data disaggregated by gender, vulnerability, and other social groupings, including:

- (i) define, identify, and enumerate the people and communities to be affected;
- (ii) describe the likely impacts of land and asset acquisition on the people and communities affected taking social, cultural, and economic parameters into account;
- (iii) discuss the project's impacts on the poor, indigenous and/or ethnic minorities, and other vulnerable groups; and
- (iv) identify gender and resettlement impacts, and the socioeconomic situation, impacts, needs, and priorities of women.

E. Information Disclosure, Consultation, and Participation

6. This section:

- (i) identifies project stakeholders, especially primary stakeholders;
- (ii) describes the consultation and participation mechanisms to be used during the different stages of the project cycle;
- (iii) describes the activities undertaken to disseminate project and resettlement information during project design and preparation for engaging stakeholders;
- (iv) summarizes the results of consultations with affected persons (including host communities), and discusses how concerns raised and recommendations made were addressed in the resettlement plan;
- (v) confirms disclosure of the draft resettlement plan to affected persons and includes arrangements to disclose any subsequent plans; and
- (vi) describes the planned information disclosure measures (including the type of information to be disseminated and the method of dissemination) and the process for consultation with affected persons during project implementation.

F. Grievance Redress Mechanisms

7. This section describes mechanisms to receive and facilitate the resolution of affected persons' concerns and grievances. It explains how the procedures are accessible to affected persons and gender sensitive.

G. Legal Framework

8. This section:

- (i) describes national and local laws and regulations that apply to the project and identify gaps between local laws and ADB's policy requirements; and discuss how any gaps will be addressed.

describes the legal and policy commitments from the executing agency for all types of displaced persons;

outlines the principles and methodologies used for determining valuations and compensation rates at replacement cost for assets, incomes, and livelihoods; and set out the compensation and assistance eligibility criteria and how and when compensation and assistance will be provided.

describes the land acquisition process and prepare a schedule for meeting key procedural requirements.

H. Entitlements, Assistance and Benefits

9. This section:

- (i) defines entitlements and eligibility of displaced persons, and describes all resettlement assistance measures (includes an entitlement matrix);
- (ii) specifies all assistance to vulnerable groups, including women, and other special groups; and.
- (iii) outlines opportunities for affected persons to derive appropriate development benefits from the project.

I. Relocation of Housing and Settlements

10. This section:

- (i) describes options for relocating housing and other structures, including replacement housing, replacement cash compensation, and/or self-selection (ensure that gender concerns and support to vulnerable groups are identified);
- (ii) describes alternative relocation sites considered; community consultations conducted; and justification for selected sites, including details about location, environmental assessment of sites, and development needs;
- (iii) provides timetables for site preparation and transfer;
- (iv) describes the legal arrangements to regularize tenure and transfer titles to resettled persons;
- (v) outlines measures to assist displaced persons with their transfer and establishment at new sites;
- (vi) describes plans to provide civic infrastructure; and
- (vii) explains how integration with host populations will be carried out.

J. Income Restoration and Rehabilitation

11. This section:

- (i) identifies livelihood risks and prepare disaggregated tables based on demographic data and livelihood sources;
- (ii) describes income restoration programs, including multiple options for restoring all types of livelihoods (e.g. project benefit sharing, revenue sharing arrangements, joint stock for equity contributions such as land, discuss sustainability and safety nets);
- (iii) outlines measures to provide social safety net through social insurance and/or project special funds;
- (iv) describes special measures to support vulnerable groups;
- (v) explains gender considerations; and
- (vi) describes training programs.

K. Resettlement Budget and Financing Plan

12. This section:

- (i) provides an itemized budget for all resettlement activities, including for the resettlement unit, staff training, monitoring and evaluation, and preparation of resettlement plans during loan implementation.
- (ii) describes the flow of funds (the annual resettlement budget should show the budget-scheduled expenditure for key items)
- (iii) includes a justification for all assumptions made in calculating compensation rates and other cost estimates (taking into account both physical and cost contingencies), plus replacement costs.
- (iv) includes information about the source of funding for the resettlement plan budget.

L. Institutional Arrangements

13. This section:

- (i) describes institutional arrangement responsibilities and mechanisms for carrying out the measures of the resettlement plan;
- (ii) includes institutional capacity building program, including technical assistance, if required;
- (iii) describes role of NGOs, if involved, and organizations of affected persons in resettlement planning and management; and
- (iv) describes how women's groups will be involved in resettlement planning and management,

M. Implementation Schedule

14. This section includes a detailed, time bound, implementation schedule for all key resettlement and rehabilitation activities. The implementation schedule should cover all aspects of resettlement activities synchronized with the project schedule of civil works construction, and provide land acquisition process and timeline.

N. Monitoring and Reporting

15. This section describes the mechanisms and benchmarks appropriate to the project for monitoring and evaluating the implementation of the resettlement plan. It specifies arrangements for participation of affected persons in the monitoring process. This section will also describe reporting procedures.

16. **Reporting.** The PCU will record the complaint, investigation, and subsequent actions and results and provide this information to the PIU-Environmental Monitoring Specialist who will include it in the monthly progress reports. In the construction period and the initial operational period covered by loan covenants the EA will periodically report complaints and their resolution to ADB in the quarterly project progress reports and semi-annual environmental monitoring reports.

17. **Responsibilities of the PCU.** The responsibilities of the PCU are implemented by the *soum* based COMO as follows:

- (i) The PCU will instruct contractors and construction supervisors to refer any complaints that they have received directly to the PCU. Similarly, the PCU will coordinate with local government "capture" complaints made directly to them.
- (ii) The PCU will log complaints and date of receipt onto the complaint database and inform the Social Development Specialist in the PIU (PIU-SDS), Supervising Engineer and the Contractor.
- (iii) The PCU, with the Supervising Engineer and the Contractor, will investigate the complaint to determine its validity, and to assess whether the source of the problem is because of project activities, and identify appropriate corrective measures. In order to assess the validity of the complaint, the Supervising Engineer, Contractor and PIU-SDS will be consulted as required, as well as other specialist such as the MEGD. If corrective measures are necessary the PCU, through the Supervising Engineer, will instruct the Contractor to take necessary action.
- (iv) The PCU will inform the Complainant of investigation results and the action taken.

- (v) If a complaint is transferred from local government agencies, the PCU will submit an interim report to local government agencies on status of the complaint investigation and follow-up action within the time frame assigned by the above agencies.
- (vi) The PCU will review the Contractors' response to the identified corrective measures, and the updated situation.
- (vii) The PCU will undertake additional monitoring, as necessary, to verify as well as review that any valid reason for complaint does not reoccur.
- (viii) During the complaint investigation, the PCU should work together with the Soum based COMO, PIU-SDS, Contractors and the Supervising Engineer. If mitigation measures are identified in the investigation, the Contractors will promptly carry out the mitigation. The Supervising Engineer will ensure that the measures have been carried out by the Contractors.

18. The tracking and documenting of grievance resolution within the PCU and/or PIU will include the following elements: (i) tracking forms and procedures for gathering information from project personnel and complainant(s); (ii) dedicated staff to update the database routinely; (iii) systems with the capacity to analyze information so as to recognize grievance patterns, identify any systemic causes of grievances, promote transparency, publicize how complaints are being handled, and periodically evaluate the overall functioning of the mechanism; (iv) processes for informing stakeholders about the status of a case; and (v) procedures to retrieve data for reporting purposes, including the periodic reports to the EA and ADB. A GRM Complaint Tracking Form is listed in Table 4.

Table 4: GRM Complaint Tracking Form

PIU Staff Responsible: (name and role)	
Date: (of this record)	
Date of Complaint:	
Date Resolution Required by (14 days from initial complaint):	
Complaint Made by: (Name & Contact Details)	
Method of Complaint: (direct to PIU, via Contractor, Via Bagh or soum)	
Details of Complaint: (issues, actions taken so far, when did it start – all details needed)	
PIU Actions: (Next steps for PIU to resolve the issue or to move complaint to next level)	
Follow Up Actions Needed and Date: (PIU to follow up on resolution if needed, e.g. check contractor actions, or escalate to next level)	