

Equivalence Assessment Matrix: Mongolia Draft EIA Law Compared with the ADB SPS

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
Policy Principle 1: Use a screening process for each proposed project, as early as possible, to determine the appropriate extent and type of environmental assessment so that appropriate studies are undertaken commensurate with the significance of potential impacts and risks.			
Key element (1) Use a screening process to determine the appropriate extent and type of environmental assessment	<p>Article 7 (“Environmental Impact Assessments”) lays out the screening procedure. Projects listed in Annex 1 are subject to “General EIA”. Article 7.4 outlines the process used to decide whether a given project should be required to undergo “Detailed EIA” (ie full EIA).</p> <p>“7.4. General environmental impact assessments for all new projects and existing plants, factories, services and building facilities that are planned to be renovated and expanded and projects that will make use of natural resources in one way or another shall be performed by an assessment expert who shall complete the assessment within 14 working days and issue a formal opinion as to whether:</p> <p>7.4.1. The project should not be permitted or rejected on the grounds that it is likely to cause considerable harm to the environment by virtue of its proposed technology, technique and activities; that it is absent in the land management planning; that its activities are inconsistent with the state policy, the strategic assessment opinions or relevant legislation;</p> <p>7.4.2. The project may be implemented without a detailed environmental impact assessment subject to specific conditions;</p>	Full equivalence	None required.

¹ There are relevant provisions of the new draft of Law on EIA , Mongolia , Law on The Law on Environmental protection, Law on Mining, Law on protection of cultural heritage and other laws and regulations of Mongolia. All provisions are directly written at beginning shall be provisions of the draft of the Law on EIA, provisions of the other relevant laws shall be written with the names of the laws.

² “Full Equivalence” denotes that the Mongolian legal requirement(s) are in complete harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element thereof. “Partial Equivalence” denotes that the Mongolian legal requirement is in partial harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element; and “No Equivalence” denotes that no Mongolia’s legal requirement can be found that corresponds to the particular ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element.

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	7.4.3 The project requires detailed environmental impact assessment.”		
Policy Principle 2: Conduct an environmental assessment for each proposed project to identify potential direct, indirect, cumulative, and induced impacts and risks to physical, biological, socioeconomic (including impacts on livelihood through environmental media, health and safety, vulnerable groups, and gender issues), and physical cultural resources in the context of the project’s area of influence. Assess potential trans-boundary and global impacts, including climate change. Use strategic environmental assessment where appropriate.			
Key element (1) Identify indirect as well as direct impacts	<p>There is no explicit reference to “indirect impacts” in the legal framework. All potential references to indirect impacts are implicit.</p> <p>The power to regulation for environmental impact assessment is given in Article 4 (“Assessments of Environmental Impact”):</p> <p>4.1 Assessments of environmental impact shall include the following:</p> <p>4.1.1 Strategic environmental assessment;</p> <p>4.1.2 Environmental baseline assessment;</p> <p>4.1.3 Environmental impact assessment;</p> <p>4.1.4 Cumulative impact assessment;</p> <p>Environmental impact assessment is defined in Article 3.1.6 as:</p> <p>“3.1.6. “Environmental impact assessment” shall mean prior identification, mitigation and elimination of possible adverse impacts of a particular project to be implemented by individuals, business entities and organizations on human health and the environment”.</p> <p>With respect to the causes of impacts, the required format for a Detailed Environmental Impact Assessment (DEIA) report is stated in Art.8.4:</p> <p>“The Detailed Environmental Impact Assessment Report shall include the following:</p> <p>8.4.1. The baseline data and indicators of the environment in which the project is proposed to be implemented;</p> <p>8.4.2 Estimations and findings of studies that are conducted to identify a potential and the major negative impact of the project and establish their magnitude, spatial extent and consequences.</p>	Partial equivalence	The proposed regulation on “EIA Procedures” will include directions on the need to identify indirect impacts.
Key element (2) Identify cumulative impacts	<p>Article 6.2: Cumulative impact assessment</p> <p>6.2.1 The state central administrative organization in charge of nature and environment shall conduct the assessment specified in Article 3.1.5 to analyze the effects on a region and basin from various projects implemented by individuals and business entities with due inputs from a licensed professional entity.</p> <p>6.2.4 The professional licensed entity shall submit for review the environmental baseline assessment report and cumulative impact assessment report to the Technical Board designated for hearing assessments at the state central administrative organization in charge of nature and environment.</p>	Full equivalence.	The proposed regulation on SEA and Cumulative Impact Assessment will provide detailed instruction on how cumulative impacts should be identified.

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	The power to develop specific regulations on cumulative impact assessment is provided by Article 5.3: "The procedure for strategic and cumulative impact assessments shall be approved by the government".		
Key element (3) Identify induced impacts	There is no explicit reference to "induced impacts" in the legal framework. All potential references to indirect impacts are implicit. The power to regulation for environmental impact assessment is given in Article 4 ("Assessments of Environmental Impact"): 4.1 Assessments of environmental impact shall include the following: 4.1.1 Strategic environmental assessment; 4.1.2 Environmental baseline assessment; 4.1.3 Environmental impact assessment; 4.1.4 Cumulative impact assessment; Environmental impact assessment is defined in Article 3.1.6 as: "3.1.6. "Environmental impact assessment" shall mean prior identification, mitigation and elimination of possible adverse impacts of a particular project to be implemented by individuals, business entities and organizations on human health and the environment". With respect to the causes of impacts, the required format for a Detailed Environmental Impact Assessment (DEIA) report is stated in Art.8.4: "The Detailed Environmental Impact Assessment Report shall include the following: 8.4.1. The baseline data and indicators of the environment in which the project is proposed to be implemented; 8.4.2 Estimations and findings of studies that are conducted to identify a potential and the major negative impact of the project and establish their magnitude, spatial extent and consequences.	Partial equivalence	The proposed regulation on "EIA Procedures" will include directions on the need to identify induced impacts.
Key element (4) Identify physical impacts	There is no explicit reference to "identification of physical impacts" in the legal framework. All potential references to physical impacts are implicit. Article 3.1.10 defines "risk assessment" as meaning: "Risk assessment" shall mean prior identification of potential impacts of chemical, biological and physical factors and natural hazards on human, flora, fauna and the environment.	Partial Equivalence.	The proposed regulation on "EIA Procedures" will include directions on the need to identify physical impacts.
Key element (5) Identify biological impacts	There is no explicit reference to "identification of biological impacts" in the legal framework. All potential references to biological impacts are implicit. Article 3.1.10 defines "risk assessment" as meaning: "Risk assessment" shall mean prior identification of potential impacts of chemical, biological and physical factors and natural	Partial Equivalence.	The proposed regulation on "EIA Procedures" will include directions on the need to identify biological

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	hazards on human, flora, fauna and he environment.		impacts.
Key element (6) Identify socioeconomic impacts (including on livelihood through environmental health and safety, vulnerable groups, and gender issues media.)	<p>There is no explicit reference to “identification of socio-economic impacts” in the legal framework. All potential references to socio-economic impacts are implicit.</p> <p>There is implicit recognition of the need to identify socio-economic impacts in the following sub-articles:</p> <p>3.1.6. "Environmental impact assessment" shall mean prior identification, mitigation and elimination of possible adverse impacts of a particular project to be implemented by individuals, business entities and organizations on human health and the environment;</p> <p>8.4.5 Risk assessment of impacts of the proposed project on human health and environment if the general environmental impact assessment requires doing so.</p> <p>8.4.9 Other issues pertaining to the cultural stratum and special nature of the project.</p> <p>3.1.3 “Strategic environmental assessment” (hereinafter referred to as strategic assessment) shall mean the identification, in the process of preparing national, regional and sectoral policies, development programs and plans that are to be endorsed by the Parliament and Government, and, in the context of impending nature and climatic changes, of potential risks, adverse impacts and consequences of actions to be taken in accordance with those policies, programs and plans on the environment, society and human health;</p> <p>3.1.5 “Cumulative impact assessment” shall mean the analysis of all effects with regard to human health, both combined and duplicate, on a particular area and basin and the environment from various projects implemented by individuals, business entities, and organizations and proposing proper mitigation measures</p> <p>3.1.4 “Environmental baseline assessment” shall mean an assessment that are carried out during the preparation of a feasibility study, design and drawing of any projects and formulation of national, regional and sector development programs and plans in order to establish the existing conditions and state of nature and environment of the territory, in which the proposed projects, programs and plans are to be implemented and to identify any environmental considerations that the project, programs, plans and policies need to incorporate.</p>	Partial Equivalence	The proposed regulation on “EIA Procedures” will include directions on the need to identify socio-economic impacts.
Key element (7) Identify impacts on physical cultural resources	<p>There is no explicit reference to “identification of impacts on physical/cultural resources” in the legal framework. All potential references to physical and cultural resource impacts are implicit.</p> <p>Article 8.4.9 requires that the following be dealt with in a DEIA: “Other issues pertaining to the cultural stratum and special nature of the project”.</p>	Partial Equivalence.	The proposed regulation on “EIA Procedures” will require the identification of physical/cultural resource impacts.
Key element (8)	The following articles are relevant:	Full Equivalence.	None required.

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Identify impacts in the context of the project's area of influence	<p>8.3. The authorized legal entity shall prepare a report presenting the findings of the detailed environmental impact assessment and develop an environmental management plan.</p> <p>8.4. The Detailed Environmental Impact Assessment Report shall include the following:</p> <p>8.4.1. The baseline data and indicators of the environment in which the project is proposed to be implemented;</p> <p>8.4.2 Estimations and findings of studies that are conducted to identify a potential and the major negative impact of the project and establish their magnitude, spatial extent and consequences.</p> <p>8.4.3 Recommendations for measures to mitigate and eliminate potential and the major impact of the project;</p>		
Key element (9) Assess potential trans-boundary impacts	<p>There is no explicit reference to “assessment of trans-boundary impacts” in the legal framework. All potential references to trans-boundary impacts are implicit.</p> <p>The following articles are relevant:</p> <p>2.2. If an international treaty to which Mongolia is a signatory provides otherwise, then the provisions of the international treaty shall prevail.</p> <p>6.2.1 The state central administrative organization in charge of nature and environment shall conduct the assessment specified in Article 3.1.5 to analyze the effects on a region and basin from various projects implemented by individuals and business entities with due inputs from a licensed professional entity.</p>	Partial Equivalence.	The proposed regulation on “EIA Procedures” will require the assessment of trans-boundary impacts.
Key element (10) Assess potential global impacts, including climate change	<p>Assessment of potential global impacts such as might be associated with climate change are touched on in the following articles:</p> <p>3.1.3 “Strategic environmental assessment” (hereinafter referred to as strategic assessment) shall mean the identification, in the process of preparing national, regional and sectoral policies, development programs and plans that are to be endorsed by the Parliament and Government, and, in the context of impending nature and climatic changes, of potential risks, adverse impacts and consequences of actions to be taken in accordance with those policies, programs and plans on the environment, society and human health;</p> <p>3.1.4 “Environmental baseline assessment” shall mean an assessment that are carried out during the preparation of a feasibility study, design and drawing of any projects and formulation of national, regional and sector development programs and plans in order to establish the existing conditions and state of nature and environment of the territory, in which the proposed projects, programs and plans are to be implemented and to identify any environmental considerations that the project, programs, plans and policies need to incorporate;</p> <p>3.1.5 “Cumulative impact assessment” shall mean the analysis of all effects with regard</p>	Full Equivalence.	None required.

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	to human health, both combined and duplicate, on a particular area and basin and the environment from various projects implemented by individuals, business entities, and organizations and proposing proper mitigation measures.		
Key element (11) Use strategic environmental assessment	See above mentioned provisions related to SEA.	Full Equivalence.	None required.
Policy Principle 3: Examine alternatives to the project's location, design, technology, and components and their potential environmental and social impacts and document the rationale for selecting the particular alternative proposed. Also consider the no-project alternative.			
Key element (1) Examine alternatives to the project's location, design, technology.	The issue of alternatives is not dealt with in the draft EIA Law.	No equivalence	The proposed regulation on "EIA Procedures" will specify the need to consider alternatives
Key element (2) Consider the no- project alternative	The issue of alternatives is not dealt with in the draft EIA Law.	No equivalence	The proposed regulation on "EIA Procedures" will specify the need to consider the no-project alternative.
Policy Principle 4: Avoid, and where avoidance is not possible, minimize, mitigate, and/or offset adverse impacts and enhance positive impacts by means of environmental planning and management. Prepare an environmental management plan (EMP) that includes the proposed mitigation measures, environmental monitoring and reporting requirements, related institutional or organizational arrangements, capacity development and training measures, implementation schedule, cost estimates, and performance indicators. Key considerations for EMP preparation include mitigation of potential adverse impacts to the level of no significant harm to third parties, and the polluter pays principle.			
Key element (1) Avoid, and where avoidance is not possible, minimize, mitigate, and/or offset adverse impacts and enhance positive impacts by means of environmental planning and management	Article 8 deals with Detailed EIA (ie "full" EIA). Article 8.4 states that: "The Detailed Environmental Impact Assessment Report shall include the following: 8.4.3 Recommendations for measures to mitigate and eliminate potential and the major impact of the project". In addition, with respect to "offsetting adverse impacts", section 6.1.3 states that: "The project implementer shall initiate a study for ex-situ biodiversity conservation with due inputs from professional and research institutions".	Full equivalence	None required.

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Key element (2) Prepare an environmental management plan (EMP)	Article 9 (“Environmental Management Plan”) deals with procedures for developing EMPs, which would include Environmental Protection Plans, and Environmental Monitoring Programmes. Specific Key Elements, such as: the proposed mitigation measures, environmental monitoring and reporting requirements, related institutional or organizational arrangements, capacity development and training measures, implementation schedule, cost estimates, and performance indicators are not necessarily discussed in Article 9.	Partial equivalence	The mandate to produce EMPs exists in Article 9. Specific contents required will be elaborated in the “EIA Procedures” regulation.
Policy Principle 5: Carry out meaningful consultation with affected people and facilitate their informed participation. Ensure women’s participation in consultation. Involve stakeholders, including affected people and concerned nongovernment organizations, early in the project preparation process and ensure that their views and concerns are made known to and understood by decision makers and taken into account. Continue consultations with stakeholders throughout project implementation as necessary to address issues related to environmental assessment. Establish a grievance redress mechanism to receive and facilitate resolution of the affected people’s concerns and grievances regarding the project’s environmental performance.			
Key element (1) Carry out meaningful consultation with affected people and facilitate their informed participation	Article 17 deals with public participation in the process of EIA. Article 17.4 states: “It is the responsibility of the legal entity performing the detailed environmental impact assessment to organize, at the report preparation stage, consultations with and formally seek comments from the local authority, the community that is likely to be affected by the project and local residents living in the area where the proposed project is going to be implemented”. Article 8.4.8 states that: “Notes of consultations made with the local authority and the community likely to be affected by the proposed project should be included in the detailed EIA report.”	Full equivalence	None required
Key element (2) Ensure women’s participation in consultation	No specific mention is made of women’s participation in EIA consultation processes.	No equivalence	Specific direction will be provided on participation of women in the EIA process in the proposed “Public Participation” regulation.
Key element (3) Involve stakeholders, including affected people and concerned nongovernment organizations, early in the project	No specific mention is made of the scheduling of participation at different points of the EIA process	No equivalence	The proposed “Public Participation” regulation will outline specific consultation points during the EIA process. This will be cross-referenced to the “EIA Procedures” regulation.

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preparation process.			
Key element (4) Establish a grievance redress mechanism	No mention is made of the need for project-level grievance mechanisms	No equivalence	Articles relating to project-level grievance mechanisms will be inserted into the “EIA Procedures” regulation.
Policy Principle 6: Disclose a draft environmental assessment (including the EMP) in a timely manner, before project appraisal, in an accessible place and in a form and language(s) understandable to affected people and other stakeholders. Disclose the final environmental assessment, and its updates if any, to affected people and other stakeholders.			
Key element (1) Disclose a draft environmental assessment (including the EMP) in a timely manner, before project appraisal, in an accessible place.	Article 17.1 states: “The state central administrative organization in charge of nature and environment shall make public via its website information regarding the development programs and plans that are subject to a strategic assessment and the projects that have undergone an environmental impact assessment”. Article 14.1.2 states: “To report, within the established deadline, the implementation status of the environmental management plan to the local community, local authority, affected parties and the relevant state central organization”.	Partial equivalence	The proposed “Public Participation” regulation and the proposed “EIA Procedures” regulation will both present directions for disclosure of draft environmental assessment documents prior to appraisal by the Technical Board.
Key element (2) Disclose the final environmental assessment, and its updates if any, to affected people and other stakeholders	No mention is made of the need to disclose the final environmental impact assessment.	No equivalence	The proposed “Public Participation” regulation and the proposed “EIA Procedures” regulation will both present directions for disclosure of final environmental assessment documents.
Policy Principle 7: Implement the EMP and monitor its effectiveness. Document monitoring results, including the development and implementation of corrective actions, and disclose monitoring reports.			
Key element (1) Implement the EMP and monitor its effectiveness.	Article 9.10 states: “Local rangers, state environmental inspectors, governors of all levels, the relevant state central administrative organization and non-governmental organizations shall monitor the implementation of the environmental management plan and the mine closure management plan”.	Full equivalence	None required.

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Key element (2) Document monitoring results, including the development and implementation of corrective actions, and disclose monitoring reports.	Article 9.11 states: “If necessary, the entity that has performed the general environmental impact assessment may require that an independent review be commissioned at the expense of the project implementer to review the project’s performance in the implementation of environmental management plan and restoration measures and based on the findings of the monitoring referred to in Article 9.10”. Article 9.5.2 states: The Environmental Monitoring Program shall address the monitoring and analysis of changes made to the state of environment as a result of the project activity and shall clarify reporting requirements and the ways to implement the plan as well as providing the timeline and estimated budget”.	Partial equivalence	Directions for documentation and disclosure of monitoring results/reports will be included in the proposed “EIA Procedures” regulation.
Policy Principle 8: Do not implement project activities in areas of critical habitats, unless (i) there are no measurable adverse impacts on the critical habitat that could impair its ability to function, (ii) there is no reduction in the population of any recognized endangered or critically endangered species, and (iii) any lesser impacts are mitigated. If a project is located within a legally protected area, implement additional programs to promote and enhance the conservation aims of the protected area. In an area of natural habitats, there must be no significant conversion or degradation, unless (i) alternatives are not available, (ii) the overall benefits from the project substantially outweigh the environmental costs, and (iii) any conversion or degradation is appropriately mitigated. Use a precautionary approach to the use, development, and management of renewable natural resources.			
	The draft EIA Law makes no principle-based statements about environmental protection. It is entirely process-focused. The Law on Environmental Protection (1995) deals with critical habitat issues to some extent.	No equivalence	The proposed “EIA Procedures” regulation will mention the need to assess the impact of development projects on critical habitats. Direction will also be given in relation to environmental management planning.
Policy Principle 9: Apply pollution prevention and control technologies and practices consistent with international good practices as reflected in internationally recognized standards such as the World Bank Group’s Environmental, Health and Safety Guidelines. Adopt cleaner production processes and good energy efficiency practices. Avoid pollution, or, when avoidance is not possible, minimize or control the intensity or load of pollutant emissions and discharges, including direct and indirect greenhouse gases emissions, waste generation, and release of hazardous materials from their production, transportation, handling, and storage. Avoid the use of hazardous materials subject to international bans or phaseouts. Purchase, use, and manage pesticides based on integrated pest management approaches and reduce reliance on synthetic chemical pesticides.			
Key element (1) Apply pollution prevention and	Article 8.4.4 states that a Detailed Environmental Impact Assessment report shall include the following: “Recommendations for alternative methods and technology that may potentially reduce	Full equivalence	None required.

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control technologies and practices consistent with international good practices.	the pollution level expected from the proposed project and for environmentally-friendly method and technology".		
Policy Principle 10: Provide workers with safe and healthy working conditions and prevent accidents, injuries, and disease. Establish preventive and emergency preparedness and response measures to avoid, and where avoidance is not possible, to minimize, adverse impacts and risks to the health and safety of local communities.			
	Requirements for SEA, CIA, and EIA, all call for assessment of potential impact on human health. Article 8.4.5 states: "Risk assessment of impacts of the proposed project on human health and environment if the general environmental impact assessment requires doing so".	Partial equivalence	The "EIA Procedures" regulation will include directions on environmental management planning. EMPs could include information on providing safe and healthy working conditions.
Policy Principle 11: Conserve physical cultural resources and avoid destroying or damaging them by using field-based surveys that employ qualified and experienced experts during environmental assessment. Provide for the use of "chance find" procedures that include a pre-approved management and conservation approach for materials that may be discovered during project implementation.			
	The draft EIA Law does not mention the need to conserve physical cultural resources.		The "EIA Procedures" regulation will include directions on environmental management planning. EMPs could include information on conserving physical cultural resources.