



# Technical Assistance Consultant's Report

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## TA 7566-REG: Strengthening and Use of Country Safeguard Systems

Subproject: Improving Legal and Regulatory  
Framework and Enforcement for Environmental  
Impact Assessment (Mongolia)

### GUIDELINE FOR ENVIRONMENTAL IMPACT ASSESSMENT: FINAL ACTIVITY REPORT

Prepared by ADB Consultant Team

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# **Guideline for Environmental Impact Assessment**

TA 7566-REG: Strengthening and Use of Country Safeguard Systems

A sub-project: Improving Legal and Regulatory Framework and Enforcement for  
Environmental Impact Assessment

Final Activity Report

December 2013

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# 1. Introduction

On 17<sup>th</sup> May 2012, a new EIA Law was approved by the State Great Hural (The Parliament) of Mongolia. According to the Article 7.7 of the Law, the Government develops and approves the regulation and guideline for the conduct of environmental impact assessments. The regulation and guideline shall govern the issues concerning the environmental impact assessment, review of assessment, revision, and activities related to the Technical Board and conducting social and public health impact assessment".

Asian Development Bank (ADB) upon request of Ministry for Nature Environment and Green Development (MNEGD) has provided assistance for elaborating draft of the regulation for conducting EIA. The draft of regulation was discussed at a regular meeting of Cabinet Ministers for approval and it recommended the MNEGD refer again the draft of regulation together with guideline for conducting EIA.

Therefore, ADB signed a contract with WWF Mongolia for updating the guideline for environmental impact assessment (EIA) within a period of two months. The contract aimed to update the guideline for Environmental Impact Assessment approved by the Order A-2 dated January 4, 2010 by the Minister of Nature, Environment, and Tourism (former title).

The new Guideline should cover the following issues:

- Guidance for conducting environmental baseline assessment;
- Guidance for integrating of SEA recommendations and decision statement of general EIA into EIA study;
- Methodological guidance for prediction of cumulative impacts, if two or more projects have been implemented in the area;
- Guidance for conducting Social Impact Assessment and community engagement/consultation in EIA process;
- Guidance calculating environmental restoration bonds, which will include ecological and economical valuation of environmental damages;
- Guidance for offsetting options and how to calculate offsetting options;
- Guidance for developing Environmental Management Plan (EMP) and content of EMP;

## 2. Brief description of works conducted during the contracting time

### *2.1 Activities and ensuring stakeholder consultation*

WWF Mongolia established a national expert team consist from experienced members. The team members are B. Chimed-Ochir, WWF Mongolia (team leader), Dr. D. Dorjsuren, Board Director of Freshwater and Ecosystem Research Institute, Enkhtulga Tumurbaatar, Executive Director of Eco Trade LLC, and Ms. Ikhbayar Batmunkh, Executive

Director of Mongolian Association for Impact Assessment (MAIA). Based on the analyzes of the existing guideline for EIA, the team defined the purpose, scope, and content of the impact assessment guideline and reached consensus on content among team members as well as ADB and MNEG (see ANNEX 1: Inception Report of the Project).

During the contract period, totally five versions including the final version were developed, two meetings were organized with relevant officials of Impact Assessment division's in MEGD and assessment experts, and comments (in written) from MEGD to the first draft guideline were received on September 27, 2013. The comments give guidance to cover following particular issues:

1. More precisely give guidance on following issues during the General Environmental Impact Assessment;
  - a. Clear guidance for screening of a project document by central and local experts according to project categories ( on what should pay more attention during the screening of specific projects such as petrol stations, building of residential units, projects related with genetically modified organisms and how to define or propose the conservation actions to be undertaken by a project implementer)
  
2. Changes to the guideline for environmental impact studies:
  - a) Develop the guidelines for EIA according to each project categories: e.g. projects of infrastructure, mining, alluvial and hard rock mines, processing industries, processing or recycling plants (i.e. waste, iron, leather, wool, cashmere, plastic, etc), and petrol storage facilities;
  - b) Specify the general guidelines for impact assessment from the international best practice (e.g. the International Financial Corporate and World Bank, etc) to be adhered for the impact assessment;
  
3. Revise a content of an environmental impact assessment and the changes to be made;
  - a) Main content of a five year-management plan;
  - b) Standard cost estimation for environmental protection and the criteria consistent to the reality for each environmental component;
  - c) The issues to make environmental monitoring more practical;
  - d) Approach and ways to integrate offset measures in an environmental management plan and the actions to be undertaken by a project implementer in order to ensure the plan implementation;

The final version of the guideline was appropriately elaborated with the guidance (in written) by the MEGD and the comments or recommendations by discussion-meeting participants. The finalized version of the guideline was delivered to the MEGD on November 05, 2013 (ANNEX 2a: Draft of the Guideline for Conducting EIA in Mongolian and ANNEX 2b: Draft of the Guideline for Conducting EIA in English). The draft regulation and guideline were discussed and supported by the Cabinet Members on its session on November 16th, 2013. In this line, the MEGD was authorized to approve the draft guideline by an Order by the Minister. (ANNEX 3: Minister's order for approving the guideline in Mongolian and ANNEX 4: The guideline for SEA and cumulative impact assessment and The Guideline for Conducting EIA).

In following sections, we will shortly describe how we implemented TOR and incorporated guidance given by MEGD. We will describe also shortly scope and objective of guideline and some specific issues of each content of guideline.

## ***2.2 Implementation of Terms of Reference and incorporation of guidance from MGED***

The guideline consists from 5 separate sections namely, Guideline for conducting Environmental Baseline Assessment, Guideline for Conducting General Guideline, Guideline for conducting detailed Environmental Impact Study, Guideline for Developing EMP and Review of Environmental Impact Study. In following, we will give short explanation how we covered issues of TOR and guidance of MEGD.

<b>Issues needs to cover according to TOR</b>	<b>Coverage in guideline</b>
Guidance for conducting environmental baseline assessment;	First section of guideline covered Environmental Baseline Assessment
Guidance for integrating of SEA recommendations and decision statement of general EIA into EIA study;	Reviewer, who conducting general EIA need to screen the project document according to check list. One of screening question is related to integration of SEA recommendation, if ay exists
Methodological guidance for prediction of cumulative impacts, if two or more projects have been implemented in the area;	In the guideline is required to assess cumulative impacts Guideline for conducting cumulative impact assessment has been elaborated by other team and approved together with this guideline
Guidance for conducting Social Impact Assessment and community engagement/consultation in EIA process;	One chapter (3.4) in the guideline for conducting detailed EIA covers Social Impact Assessment There are no separate guideline for community engagement/consultation in EIA process but in each section, we integrated how to engage public for ensuring their participation
Guidance calculating environmental restoration bonds, which will include ecological and economical valuation of environmental damages;	Amount of environmental bond defined by annual EMP. One chapter (4.5) of guideline for developing EMP covers how to develop annual EMP
Guidance for offsetting options and how to calculate offsetting options;	Plan for offsetting and how to calculate the offsetting costs described in 3.3.6 of guideline for conducting detailed EIA study

Guidance for developing Environmental Management Plan (EMP) and content of EMP;	Section 4 of the guideline covers fully development of EMP and its content
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It was not possible to incorporate all issues suggested by MEGD especially a) of 1 and 2. The purpose of guideline is to give general guidance conducting EIA for all project categories. Therefore, it is time consuming for elaborating guidelines for each project types, which has suggested by MEGD. In addition, it exist already comprehensive guidelines for specific project developed for example by ERBD. Project implementer, reviewer and consultants can use these guidelines. But it is needed to develop sector specific guidelines. As example, we developed guideline for conducting EIA in tourism sector and annexed to the guideline. Other suggestions of MEGD e.g. regarding EMP are fully incorporated in the guideline.

### 3. Purpose and scope of impact assessment guideline

#### *3.1 Old Guideline for Environmental Impact Assessment*

First guideline for EIA was developed and approved by Minister's Order No: 119 dated April 27, 2006 with its Annex 3. The guideline was updated (substantial changes) in 2009 and approved by the Nature, Environment, and Tourism Minister's order No: A-2 dated January 04, 2010, which has been valid until now. Purpose of our task is to update the guideline.

The guideline is a 130 page-document containing seven chapters included 19 tables and 26 figures.

Its contents are:

- Chapter 1: Goal of EIA, types, content and structure guideline
- Chapter 2: Brief introduction about assessment methodologies and brief description and understanding of seven most common assessment methodologies, mathematic modelling, remote sensing and GIS;
- Chapter 3: Overall requirement on screening and specific issues, which needs to pay attention in certian sectors during screening;
- Chapter 4: Brief understanding about detailed EIA, assessment steps (colletion of information, field data collection, and analysis), content of report;
- Chapter 5: Public health assessment, its goal, criteria, assessment methodologies and steps;
- Chapter 6: Cumulative impacts, definition, principles, steps, impact ranges, affects, assessment methodologies;
- Chapter: Sustainable development approaches, basic understanding about strategic EIA;

To briefly conclude, the guideline has been a technical guidebook for the persons (legal entities) that carry out impact assessments rather than the guideline to ensure the law enforcement in terms of its purpose. With this conclusion, we do not criticize the document value, but we would like to point out that there is a need to use it as a technical guidebook for the economic entities engaged in impact assessment and the students studying in the field after it is appropriately improved and revised. One missing point in the guideline is the participation of interested parties in an assessment process.

### ***3.2 New Guideline For Environmental Impact Assessment***

Goal of the guideline, which will be approved by the Government should be implementation guideline for EIA legislation and ensures proper understanding on EIA processes among all parties involved e.g. project proponent, professional entities, decision makers and affected peoples.

When updating (drafting) the guideline, we intended to ensure adequate compliance with the requirements of the Law on Environmental Impact Assessment and the regulation issued in conformity with the Law and at the same time the general requirements of international banking and financial institutions in the field and to conduct EIA in accordance with international standards. For instance, the guideline recommends conducting the environmental state assessment, which is performed during a planning phase of a project, in accordance with the overall requirements of the World Bank (WB), International Financial Corporate (IFC), European Bank for Reconstruction and Development (EBRD), and Asian Development Bank (ADB) to the environmental and social baseline studies; the general EIA in accordance with the requirements to the environmental legal and policy screening that is conducted in project documents; and the environmental impact assessment in accordance with the standards applied by most international banking and financial institutions and decision making agencies towards the environmental and social impact assessment (ESIA). While applying these approaches, we considered specifics of the country's legal environment and economic development and aimed to make the assessment procedure and practice clearer to foreign investors, bring it to international standards, and improve capacities and skills of national specialists, experts, and professional organizations to the international levels. In this meaning, the new guideline is technically unlike from the guideline in use as it has been revised almost 100 percent. During this work to update the guideline, the team has simultaneously focused on the missing or omitted points and the issues to be necessarily addressed.

## **4. Structure and Content of new Guideline**

During the development of the guideline, some changes have been made to the structure and content of the guideline that was presented in the inception report. The final version of the guideline has five sections: the guideline for Environmental State Assessment, the guideline for General Environmental Impact Assessment, the guideline for detailed



Environmental Impact Assessment, the guideline for Development of Environmental Management Plan, and the guideline for Assessment Analysis.

Structure and content of the guideline has been developed upon the consideration of the following steps (phases) legally stated:

- A project implementer will have environmental state descriptions or environmental state assessment of the proposed project area completed by a certified entity to appropriately identify potential project impacts when developing the project's technical and economic justifications; as the project's negative impacts are appropriately defined, the project implementer will apply to the competent governmental organization for the project's general EIA (screening);
- The component governmental organization will carry out the general assessment (screening) and make one of the decisions legally stated;
- The project implementer, who needs to have a detailed EIA for its project at a decision of the general EIA (screening), will develop Terms of Reference (ToR) based on the expert's judgment and make a contract with a certified assessment entity as selected it;
- The selected economic entity will carry out a detailed assessment study (scoping) in accordance with the ToR and develop an environmental management plan based on the study (scoping). The entity will deliver the detailed EIA report and environmental management plan to the competent governmental organization that conducted the project's general EIA (screening);
- The governmental body (organization) received the assessment report and environmental management plan will perform an assessment analysis within the period legally stated and make a decision;
- When a decision to implement the project is made, the project implementer will start up the project implementation after deposited its security as a pledge to fulfill its legal responsibilities;
- During the project implementation, the project implementer will develop yearly environmental management plan, have it approved by the competent governmental body, and report its performance at the end of the year;

When updating (drafting) the guideline, we aimed to entirely follow up the ToR attached to the contract and the comments in written provided by the MNEGD. The following sections briefly state contents and some details of each guideline.

#### ***4.1 Guideline for Environmental Baseline Assessment***

According to the Article 3.1.4 of the Environmental Impact Assessment, a project implementer will have an environmental baseline assessment for the proposed project area(s) completed by a competent professional and research institution(s) during preparation of the project document and a relevant governmental organization will have an environmental state assessment of the proposed area(s) completed by a competent professional and research institution(s) during preparation of a national and regional development project proposal (6.2).

However, a regulation specifies what projects should have the environmental state assessments as considered that having an environmental state assessment for each proposed project is inappropriate. According to the assessment related regulation, the following projects should have environmental assessments (2.2):

- The projects those shall have general EIA (screening) as recommended by the State Administrative Central Body in charge of environmental issues;
- The projects to run mineral, radioactive minerals, and oil exploration and exploitation;
- Other necessary projects;

For the projects not included in the lists above, descriptions on the area's environmental state will be asked when a general EIA (screening) is performed (Article 7.3 of the Law on EIA).

An environmental state assessment requires from the project implementer to define the project's major and potential impacts and overall environmental state of the area(s) to be potentially affected by the project interventions when preparing the project document. The guideline for environmental state assessment specifies main purpose, requirements, steps or phases, structure and content of environmental state assessment.

#### ***4.2 Guideline for General Impact Assessment***

A general EIA (screening) is a decision making activity: whether the project will be implemented, how potential negative impacts on environmental and public health states will be mitigated in the event of the project implementation, and whether the project needs a detailed EIA.

The guideline for general EIA describes main purpose, requirements, and decision making process of a general assessment, and public participation in the assessment and decision making process. To verify whether the general assessment expert's judgment is justified, a checklist of general EIA has been developed. The checklist adequately filled in will be an important reference when the project implementer and the public are doubtful in the expert's judgment and a dispute(s) is raised.

#### ***4.3 Guideline for detailed Environmental Impact Assessment***

Main purpose of a detailed EIA is to identify and assess potential negative impacts on the environment and public health of the projects to be implemented by individuals and economic entities and propose mitigation actions to prevent, avoid, reduce, and eliminate negative impacts and their consequences (3.1.6).

A detailed EIA of a project will be performed in the following steps (phases):

- Develop ToR of the detailed EIA;

- Define major and potential negative impacts of the project;
- Assess the major and potential negative impacts of the project;
- Define the minimum negative impact options of the project;
- Define the mitigation measures to prevent, reduce, and eliminate the negative impacts and their consequences;
- Propose remedial and offset measures;
- Perform potential risk assessment of the project towards the environment and local residents;
- Main purpose, scope, and criteria of environmental management plan;
- A report of the detailed impact assessment and its non-technical executive summary;

When updating (drafting) the guideline for detailed EIA, we aimed to fully cover all the activities required for each step above. The guideline consists of the chapters and sub-chapters stating purpose, requirements, steps and phases, environmental and social impact assessment, risk assessment, the minimum impact option of the project, report structure and content, and non-technical executive summary. No specific method(s) of impact assessment is recommended in the guideline, but some methods widely applied in the international practice are shown in Boxes. One of the innovative approaches we attempted to specify in the guideline is that how to define offset measures and estimate their costs. Biodiversity offset is a quite new concept for Mongolia, so it is undeniable the guideline would inadequately address at the issue.

#### ***4.4 Guideline for Development of Environmental Management Plan***

The guideline for development of environmental management plan has been prepared separately from the guideline for detailed EIA since the environmental management plan is the legal act to mitigate, eliminate, and prevent from potential adverse impacts defined by the project detailed EIA and monitor and disclose potential negative impacts to be emerged within the project area(s). The guideline for development of environmental management plan specifies main objectives, requirements, and structure of the plan and steps or phases of the plan development, and public participation in detail. The plan contains mitigation actions, biodiversity offset actions, resettlement and compensation, protection of historical and cultural heritages, risk management and accident prevention, environmental monitoring programme, and reporting and presenting the environmental management plan performances to stakeholders and interested parties for discussion. Additionally, the guideline specifies details on how to develop annual environmental management plan. Annual environmental management plans will be a main document for the project implementer to define the yearly security amount.

#### ***4.5 Guideline for Review of Environmental Impact Study and Environmental Management Plan***

Analysis in a detailed EIA report is the most responsible task to make technical judgement and decision on whether the economic entity performed the detailed EIA in accordance with the respective law and regulations, whether the assessment report is well-founded or justifiable and precise and the environmental management plan is practical. Thus, the guideline has been developed separately. It consists of five parts: objective, submission of materials, assessment analysis, decision making, and performance monitoring. Materials will be received in their hard and soft copies and a checklist will be used for the assessment analysis. Use of checklist will provide the Technical Board with the opportunity to assess and verify whether the expert(s) has accurately assessed and judged each point in the assessment.

#### ***4.6 Ensuring Public Participation in EIA process***

The Law on Environmental Impact Assessment approved by the Parliament on May 17, 2012 provides a basis for public participation in assessment process while increased responsibilities of involving parties in EIA process, particularly in EIA for mining activities.

Article 10 (10.5) of the Law states “the project implementer and certified entity for performing the project impact assessment shall jointly organize the activities to present the assessment report to local communities to be affected by the project interventions”; Article 14 (14.1.2) states “local residents, local government, and affected people shall be obliged to report about the environmental management plan performance to the State Administrative Central Body within the set dates; and Article 18 in Chapter 4 of the Law points out the participation of interested parties in the assessment process.

Public participation and mobilization of interested parties in the assessment process is an indispensable part of EIA. The guideline aims to enable local residents of the project area to get information on the project activities to be implemented within their territory, share their comments and thoughts, actively take part in the proposed project activities, disclosure conclusions and decisions on projects and programmes, and provide the public with true information.

The guideline for EIA has no a section of public participation, but appropriately stipulates it in respective sections. For instance,

- Ensure public participation in a general EIA process (screening);
- Consideration of social impacts within the framework of a detailed EIA;
- Public hearing or discussion of detailed EIA results in local area(s);
- Ensure public participation during development of environmental management plan etc;

The guideline specifies the project implementer and the contractor of a detailed EIA of the project are obliged to consider the public participation in the project’s EIA as a part of the social and economic studies and to organize activities in systematic way. Additionally, the guideline provides details on how to consider social impact issues under a detailed EIA and defines the practical ways to process community feedback and comment based study data

through organizing consultative meetings and discussions for stakeholders and interested parties and assess the project's social impacts by using matrices and checklists.

## 5. Conclusion and Recommendation

The draft of guideline for conducting EIA has been elaborated by financial assistance ADB. The elaboration of the guideline was time consuming work but work has been done due to hard work of team members with close cooperation relevant experts from MNEGD and Health Ministry. Through the approval of this guideline, we hope that progress will be made in the implementation of EIA related legislation in Mongolia. The guideline will give clear guidance for all stakeholders how to conduct EIA and to ensure public participation and improve quality of EIA study reports as well as EMP. We consider that this guideline is not perfect one and therefore further improvement is needed during the implementation process. It is needed to develop further sectoral guidelines and as well as for specific projects suggested by MEGD, which might not need necessarily official approval process like this one.

## 6. References

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