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Subproject: Reform of Legal and Regulatory
Framework for Involuntary Resettlement–Phase I
(Mongolia)

LAND ACQUISITION LEGISLATION AND EXPERIENCE IN OTHER COUNTRIES

Prepared by ADB Consultant Team

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Asian Development Bank

Reform of Legal and Regulatory Framework for Involuntary Resettlement in Mongolia

**Supported by ADB Regional Technical Assistance 7566:
Strengthening and Use of Country Safeguards Systems**

Land Acquisition Legislation and Experience in Other Countries

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31 August 2011

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1. Introduction

1. The Consultant Team has been asked by the Working Group to provide further information on land acquisition legislation and experience in certain countries, discuss the pros and cons, and suggest what can be learnt for Mongolia from their experiences.
2. The countries chosen by the Working Group for this purpose were Canada, People's Republic of China, Germany, Kazakhstan, Korea, and a former socialist-block country, which after discussion with the Consultant Team has been determined to be Serbia.
3. A detailed matrix has been prepared that outlines the key provisions of the legislation in the countries mentioned above, as well as those of Armenia, Cambodia and the United States. The matrix also details relevant provisions of the ADB's Safeguard Requirements 2: Involuntary Resettlement.
4. This paper provides background and context for the information contained in the matrix. It touches on the extent to which social safeguard standards are implemented in the sample countries. The detailed matrix is presented as Annex 1. The list of references used in the comparison is presented in Annex 2.

2. Canada (Province of Manitoba)¹

5. Canada is a federation in which powers are divided by subject matter between the federal and provincial governments (10 of them)². Neither level has priority. The federal government and all provincial governments have eminent domain power to acquire land needed for their purposes, and the federal and provincial governments all have their own laws in this regard, which they call Expropriation Acts. Despite the governments' independence of each other, the Expropriation Acts are quite similar.
6. We use the Province of Manitoba as our example³. Geographically it has features in common with Mongolia: a huge territory (650,000 sq km), sparse population (1.2 million), 70% of the population living in the capital city (Winnipeg), and a continental climate.
7. In Manitoba, as is the case generally in Canada, the scope of eminent domain is restricted to government acquisition of land for its own purposes. Governments, both central and local, can expropriate land for roads, service infrastructure, government buildings, etc. – anything directly related to the mandates of ministries and local governments. Their authority in this

¹ See Issues Paper for more detailed description.

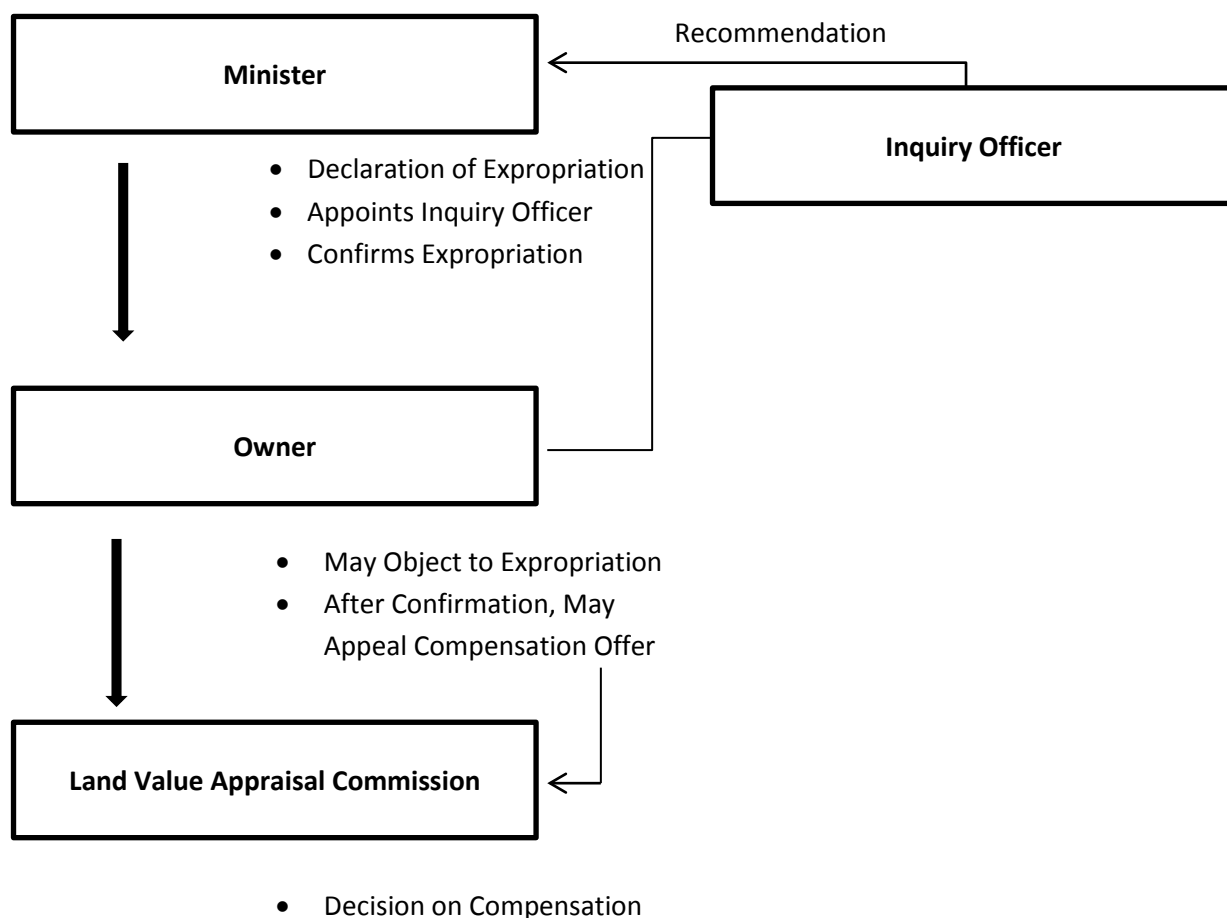
² There are also three sparsely populated territories in the far north, which have quasi-provincial powers.

³ In this section the Consultant Team's International Legal Specialist draws on his own background as a practising local government and land management lawyer in the Province of Manitoba, with more than 30 years' experience. He has acted for municipalities in land acquisition (roads, drains, water and sewage infrastructure, municipal buildings) and for private owners whose property is being expropriated.

regard is not spelled out in the Expropriation Act, but in sectoral and local government laws. Acquiring land for private development, which will boost the economy and increase tax revenue, is not an authorized public purpose, unlike in some US states.

8. Most of the province’s area is state land, but it is unoccupied wilderness. Land occupied for residential, agricultural, commercial and industrial purposes is privately owned. The issue of informal occupiers does not arise because there are virtually no informal occupiers. Thus eligibility for compensation is restricted to legally registered owners and tenants of such owners.

9. A governing principle is that after receiving compensation, the owner should be in the same economic position as before the expropriation. The provisions that implement this principle are very thorough. For example, all moving and relocation expenses and all of an owner’s business losses are covered. An important component of compensation is that the expenses of an affected person’s legal, appraisal and other consulting advice must be reimbursed by the expropriating authority, to the extent they are reasonable. This empowers owners and exerts discipline on officials. If compensation is disputed, the final decision, binding on the government, is made by the Land Value Appraisal Commission, a specialized tribunal that is independent of the government.



10. In Manitoba it is not necessary for the government to go to court in order to sanction expropriation and approve compensation, unlike in the United States. The onus is on the landowner to initiate court proceedings to challenge the authority or actions of the expropriating authority. The courts, as in the rest of Canada, hold the government to high standards and will stop expropriation procedures if the law has not been followed meticulously.

11. There is no provision for a monitoring system or institution in the law. This function effectively resides in the Land Value Appraisal Commission with respect to compensation and in the courts with respect to the power to expropriate and the correct procedures.

12. An assumption of the Manitoba system is that there is an active market in real estate, so that cash compensation will enable an owner to purchase equivalent replacement property. This is why compensation is always in the form of cash, and why market value is the standard. If buildings are valued separately from land, then market value applies, implying that depreciation is a factor. The owner is able to buy a replacement building, also at its depreciated market value.

13. Provision for vulnerable persons is not strong in the Expropriation Act. The poor usually live in rented accommodation. Under the law they are entitled to moving costs, and if equivalent rented accommodation carries higher rent, then compensation to cover the higher rent for the remaining term of the lease. For people such as extended family members or small business operators who are neither owners nor tenants, the expropriating authority may make voluntary payments to cover moving expenses or business losses.

14. There is no provision for consultation in the Manitoba Expropriation Act. For most projects consultation is governed by other legislation, in particular the Environment Law and urban planning laws. The situation is not perfect, because only major projects will require full environmental review that includes such important elements as social assessment. The most important factor requiring prior consultation with affected persons is the desire of politicians and officials to avoid controversy by obtaining the agreement of owners. Although there may be no law or regulation requiring engagement with owners prior to starting formal expropriation procedures, there is always a systematic attempt on the part of authorities to minimize impacts and obtain the agreement of as many affected persons as possible. This attempt to obtain agreement, combined with generous compensation provisions, means that expropriation is necessary only in a small minority of cases.

15. It is fair to say that in Manitoba, as in many other jurisdictions in developed countries, most internationally recognized social safeguards are assured despite not being directly addressed in the law of eminent domain.

16. Strong rule of law, good governance, independent and competent judiciary, easy access to dispute resolution, and low corruption are keys to the fairness and effectiveness of Manitoba's expropriation system. This applies to many jurisdictions in the developed world. The challenge for Mongolia is implementation of social safeguards where these elements are lacking. It is not enough for the law to provide for compensation and procedures complying with social safeguards. Strict attention must be paid to institutional issues, including (1) the body that authorizes expropriation when negotiations fail, (2) the body that makes the final decision on compensation, (3) the role of the courts.

3. Germany

17. Germany is an example of an advanced developed country with strong rule of law and good governance, and experience with land acquisition in connection with urban redevelopment, where the link between urban planning and land acquisition is well-developed.

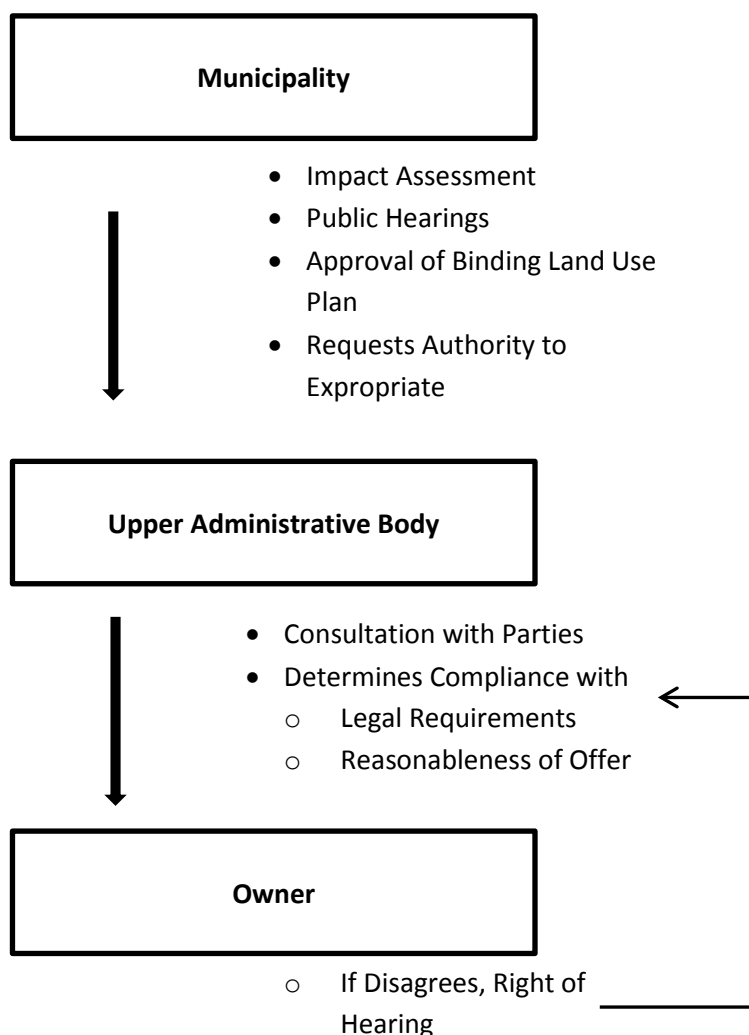
18. The German Constitution allows expropriation only if (1) it is for the public good (2) it is under a law that determines the nature and extent of compensation (3) there is no other reasonable way with a lower level of interference. The government must attempt to buy the land in good faith before it can expropriate. Sectoral federal and state laws authorize expropriation for specific public purposes.

19. Each of the 16 German states has an Expropriation Act setting out procedures and compensation requirements. The Federal Building Code prescribes a system of master plans, which are not legally binding, and detailed plans which are legally binding. Expropriation is based on a designation of public use in a binding land-use plan. In fact, compensation must be paid to an owner if designation of land for a public use in such a plan results in loss, even in the absence of expropriation.

20. The principle is that compensation will give the owner the opportunity to acquire a comparable property. Market value is the criterion. Compensation is in cash, except that if the owner's livelihood depends on the property, then substitute property must be supplied. As well as compensation standards similar to those in Canada, Germany provides specifically for vulnerable persons. A social plan is required in connection with a binding land-use plan that will cause adverse effects, including having to move house, find other employment or relocate a business. Hardship allowances are to be given to tenants "in order to prevent or mitigate economic disadvantage".

21. Institutional arrangements are particularly sound. Binding land-use plans are approved by municipalities only after a planning and impact assessment process and hearings involving the public and owners. An expropriating authority must satisfy a higher level special administrative authority that the legal requirements have been met (authority has made

reasonable attempt to avoid expropriation, has followed the proper procedures, expropriation is needed to implement a public purpose, and offers are reasonable) before receiving authority to expropriate. This decision may be appealed in court.



22. The German experience has important lessons for Mongolia: (1) consultation on detailed urban plans, (2) a social plan in connection with the detailed plan, and (3) a method of independent oversight.

4. Korea⁴

23. Korea has a great deal of experience with intensive development and redevelopment of urban areas owned by many owners, involving the construction of infrastructure, replotting of building sites, compensation for affected persons, and relocation where necessary. The Korean legislation is a useful example for Mongolia because it is specifically tailored to urban redevelopment, which has been implemented successfully over a period of 60 years.

⁴ See Issues Paper for more detailed description.

24. The Land Acquisition and Compensation Act (LACA) is a general law that prescribes rules and procedures for land acquisition, compensation and resettlement. It applies in all cases, except where a special provision is included in another Act. It contains a comprehensive list of the kind of projects for which expropriation is possible. The Urban Development Act (UDA) provides for urban development projects carried out by land readjustment, expropriation, or a combination of the two. Under UDA, if a private project serves a public purpose, the developer may be granted the right to expropriate if it owns more than two-thirds of the area or has the consent of two-thirds of all other landowners. For a redevelopment project, the threshold is 95%. LACA rules and procedures will apply to this kind of expropriation.

25. Compensation provisions are generally sound, although there is no provision for informal occupiers or vulnerable persons. Interesting features of the Korean law are (1) its detailed procedure for negotiated settlement, under which a project operator must prepare an LAR plan in consultation with APs, (2) Land Expropriation Committees, quasi-judicial administrative bodies established by national and local government, composed of impartial specialists (judges, prosecutors, lawyers, professors and senior officials), whose role is to decide the boundaries of land to be expropriated, its use, and compensation if owners do not agree, and (3) a requirement to report on LAR implementation procedures regularly, disclose records to the public, and to undergo inspection on completion to verify whether LAR was implemented as planned.

26. A weakness of the Korean system is that consultation is focused on LAR, while the urban development plans that are implemented in the projects are not subject to consultation with affected persons.

5. People's Republic of China

27. In China, as well as for direct public benefit, private and collective interests in land can be taken back by the state for urban development and implementing other state plans for land utilization. Widespread urban redevelopment has taken place, but under a top-down planning and approval system, which has now come under closer scrutiny.

28. Only registered owners or users are entitled to compensation. Others may be compensated. In rural areas, land compensation is a minimum of 16 times average annual output value. In suburban areas, rates are set by local government. In urban areas: market value according to location, with local government rates adjusted for housing quality. Allowances are paid for moving and transition expenses. Government may offer exchange housing consisting of a unit in a new apartment building. There is no provision for tenants. In practice, they may receive compensation for the remaining term of the lease, moving expenses and assistance to find replacement housing. Registered businesses may receive 2 to 3 months profit and wages. Larger enterprises will negotiate compensation based on

production losses and immovable assets. Safety nets for the poor and vulnerable are provided by government rather than the project operator under land acquisition laws.

29. Compensation standards, implementation and supervision have improved since the mid-1980s. Most acquisitions are now based on agreement. Funds are generally paid prior to displacement. However, increasingly people are reluctant to move or accept the compensation offered. Their expectations for compensation can be unreasonable. Because local governments are reluctant to force the taking by going to court, even where the compensation offered is fair, they try to convince APs to agree, and as a result costs have been rising for land acquisition and resettlement.

30. Lessons for Mongolia are:

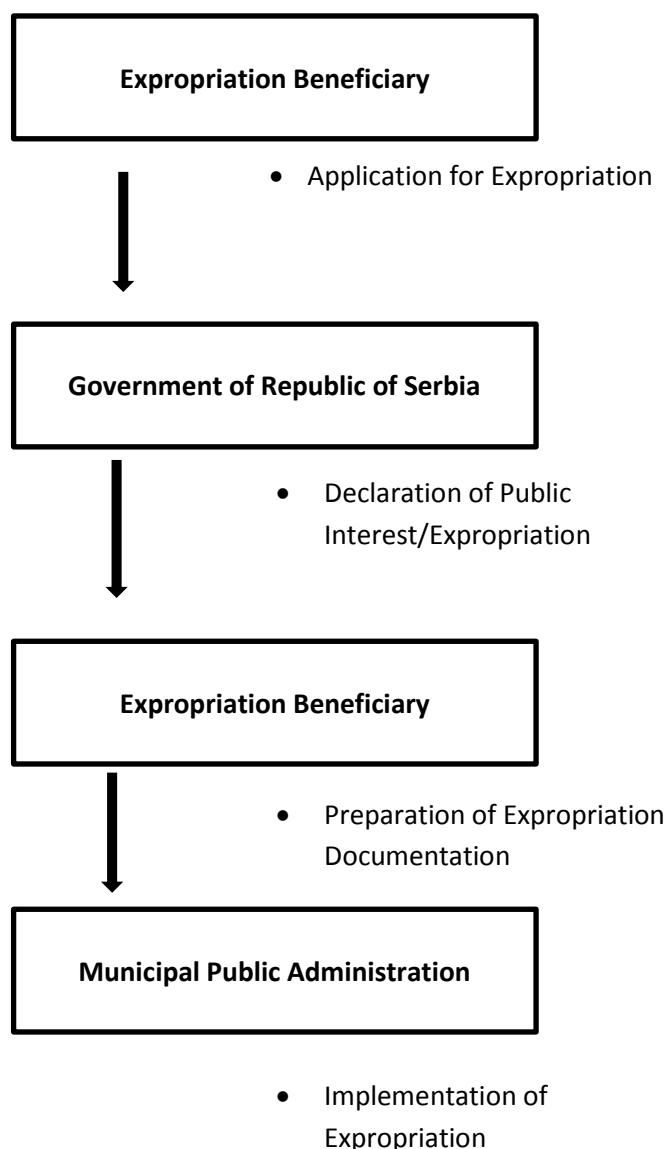
- It is useful to have detailed regulations that can be implemented by officials.
- Mistrust and delays can be avoided by notifications and transparency that help reach agreements.
- Public information campaigns can be used to gain public support.
- There should be close supervision of the payments and auditing system.
- There should be strict enforcement of misconduct by officials, but protection of officials if procedures are strictly followed.
- With rapid economic development, peoples' expectations for compensation can rise to unreasonable levels.
- Consider benefit sharing as a means to encourage agreements.

6. Republic of Serbia

31. Like Mongolia, Serbia is a transition economy currently implementing reforms in the areas of land tenure and property rights. Key challenges in this regard include registration of property rights in land books and cadastres, with the early consolidation of registries into a unique registration system a key goal. Of note, property rights transfers (i.e. upon conclusion of purchase agreements or probate proceedings) often remain unregistered due to high registration fees and complicated administrative procedures.

32. The Expropriation Law of the Republic of Serbia focusses on properties and assets which may be expropriated and restrictions which may be placed on property rights in the public interest. As presented below, as first step to initiate expropriation, the relevant expropriation beneficiary submits an application for the proclamation of public interest to the national government. If public interest is established, the expropriation beneficiary then submits a request for expropriation to the municipal property administration within local self-governments. The application for determination of public interest and subsequent proposal for expropriation must include a detailed list of properties to be expropriated, their location, and information about individuals who have formal legal rights on these properties. The

proposal for expropriation must also be accompanied by extracts from the cadastre or other public documents (land registries) specifying all rights on the affected properties.



33. The Expropriation Law recognizes only those who have formal legal rights over properties. The number of informal constructions in Serbia has blossomed during the transition years as rural, often marginalized households seek improved livelihood opportunities in urban centres, particularly Belgrade, the capital city. The country has recently adopted a law permitting, under certain prescribed conditions, legalization of informal structures. In areas where properties cannot be legalized (i.e. due to zoning or technical restrictions), households are evicted and property assets demolished without compensation, a clear contravention of international social safeguard standards.

34. Serbia's recently enacted (2009) Law on Social Housing aims to provide adequate housing for vulnerable groups. With limited resources, authorities find it difficult to justify favouring

displaced households without formal legal rights to the properties they occupy over other vulnerable groups; in practice, informal occupants benefit little from the Social Housing Law.

35. The Serbian Expropriation Law does not contemplate compensation for lost profit/income of affected economic activity (formal or informal) resulting from displacement. More broadly, the Expropriation Law does not contemplate delivery of livelihood restoration assistance or transitional support to affected persons.

36. All eligible affected people (i.e. those with formal legal rights to affected properties) are informed about the proclamation of public interest and have the right to appeal. There is no engagement with those without formal legal rights. Neither are there requirements to make special provisions to inform / consult with vulnerable groups.

37. There is no specific legislative requirement to establish an independent grievance mechanism in Serbia. The Expropriation Law and administrative codes foresee rights of affected citizens (with formal legal rights) to appeal to courts during the expropriation process at various stages of the expropriation process, including the decision on public interest, the decision on expropriation, and the amount of compensation. Perceived challenges in navigating an appeal through the formal court system prompt many to explore informal redress through the relevant expropriating authority.

38. Compensation under the Expropriation Law is established in accordance with the prevailing market price. All costs associated with transfer of property rights to the expropriation beneficiary are borne by that entity. Although the law also does not specifically mention depreciation of structures and assets (the valuation methodology is not prescribed in the Law), depreciation is typically taken into account during valuations. Compensation is also provided for easement rights and for temporary occupation of land.

39. While negotiated settlements are not explicitly encouraged by the Expropriation Law, they are recognised as long as they are concluded within two months of the final decision on expropriation.

40. There are a number of sound provisions in the Serbian Expropriation Law, including a requirement that project proponents provide a bank guarantee covering the cost of resettlement prior to project launch. Shortcomings include the absence of any consultation provisions, the treatment of unlicensed occupants and inconsistent application of compensation standards on projects in multiple local jurisdictions.

7. Kazakhstan

41. Kazakhstan is a post-socialist state, which has faced many similar transition issues as Mongolia. However, it is not by any measure a democracy. In the field of land acquisition, it can only be put forward as a poor example.

42. The law has some sound provisions. The scope of eminent domain is not open-ended. It is not allowed for commercial purposes of nongovernmental entities. It is not allowed if there is another way of meeting state needs. If an owner does not agree to sell, the executive body must file an expropriation case in court. In theory this ensures that the land is needed for an authorized state purpose, that the proper procedures have been followed, and that the offer complies with compensation principles. However, in Kazakhstan the courts cannot be relied on to protect the rights of affected persons.

43. Furthermore, the compensation provisions are wholly inadequate. Land compensation is the amount the owner paid the state when the land was acquired (plus cost of improvements). If the land was purchased from a private owner, then compensation can be no more than the purchase price specified in the contract. In practice this means that compensation is always lower than market value. In the CAREC Transport Corridor projects, APs' plots were assessed at less than 5% of market value, as they had been purchased from the state 15 years before at very low prices.

Annex 1 – Detailed Matrix

Issue	ADB SPS	Mongolia – Current	People’s Republic of China	Republic of Korea	Canada – Province of Manitoba	Germany	Kazakhstan	Republic of Serbia	USA – State of Minnesota	Armenia	Cambodia
1. Scope of eminent domain		<p>Grounds are special public need.</p> <p>Private land:</p> <ul style="list-style-type: none"> Ensuring national defense and security Creating a permanent surveillance field for scientific and technological tests or experiments and environmental or forecast observation Building national roads, engineering lines, buildings and constructions. <p>Land in private possession</p> <ul style="list-style-type: none"> Land under special government protection Border strip lands Land for ensuring national defense and security Land for foreign diplomatic missions and consulates, as well as resident offices of international organizations 	<p>Rural collective-owned lands:</p> <ul style="list-style-type: none"> Land needed for the benefits of the public Land for readjustment to revitalize old urban area in accordance with city planning At expiration of period stipulated in the contract for use of the land as land assignment, the user has not applied to extend the period or, if s/he has, the application is rejected Use of originally allocated State-owned land is terminated because, among other reasons, the unit that uses the land has been dissolved or relocated Highways, railways, airports or ore fields abandoned with approval. <p>Urban lands:</p> <ul style="list-style-type: none"> Needs for national 	<p>For the following projects:</p> <ul style="list-style-type: none"> National defence and military affairs For the public interest: railroads, roads, airports, harbours, parking lots, public garages, cargo terminals, cable ways, rail tracks, rivers, dikes, dams, canals, potable water system, sewerage system, sewage treatment, treatment of wastewater, erosion control, windbreak, fire prevention, tide embankment, water embankment, reservoirs, irrigation and drainage canals, petroleum reservation and oil supply, treatment of oil waste, electricity, telecommunications, broadcasting, gas and meteorological observations Facilities to be 	<p>Ministries and local governments may acquire land for public purposes related to their mandates. Land must be needed by the authority for its <u>own</u> purposes. Private pipeline, electric power and telecommunication companies: rights equivalent to expropriation. Government bodies must first approve project.</p>	<p>German Constitution allows expropriation only if (1) it is for the public good (2) it is under a law that determines the nature and extent of compensation (3) there is no other reasonable way with a lower level of interference. Government must attempt to buy the land in good faith before it can expropriate. About 30 sectoral federal and state laws authorize expropriation. Including:</p> <ul style="list-style-type: none"> Roads, railways, airports, channels Pipelines, electricity transmission lines School, hospital, church, public green Environmental or monument protection Preservation of building structures <p>The public use must be designated in a binding land-use plan.</p>	<p>For state purposes for specific uses:</p> <ul style="list-style-type: none"> To meet international obligations Defense purposes, protected natural areas, recreational, historical and cultural facilities, special economic zones Mineral deposits Roads, power lines, communication lines, pipelines, engineering and communication networks, and other objects of state significance Demolition of dilapidated housing, emergency, threatened collapse. Execution of master plans for settlements by construction of the facilities listed Facilities provided by state and regional programs and investment projects to 	<p>Land required in the common interest, determined by law or Government of the Republic decision. Can be for any level of government and public enterprises. Includes constructing buildings for education, public health, social welfare, culture, water management, sports, transport, power generation and public utility infrastructure, national defence, environmental protection and protection against natural disasters, ore-mining, buildings to house needy people. Key criterion: the project cannot proceed without expropriating the property.</p>	<p>For public use or public purpose. Public benefits of economic development, including an increase in tax base, tax revenues, employment, or general economic health, do not by themselves constitute a public use or public purpose. Includes mitigation of a blighted area or reduction of abandoned property. Eminent domain may be exercised by state and local authorities, utilities, pipeline and electricity companies and the like. Acquiring authority must make a good faith attempt to negotiate with the owner.</p>	<p>In the case of exceptional public and state priority needs. State protection, public and state security; communication infrastructure, transport, energy, land use, land study, city construction, energy supply, water supply; protection of the environment.</p>	<p>Under the Constitution, only in the public interest, payment of just and fair compensation in advance. Open-ended definition of <i>public interest</i> to include anything determined by the Government to be required by the nation.</p>

Issue	ADB SPS	Mongolia – Current	People’s Republic of China	Republic of Korea	Canada – Province of Manitoba	Germany	Kazakhstan	Republic of Serbia	USA – State of Minnesota	Armenia	Cambodia
		<ul style="list-style-type: none"> Free zone area Land for scientific and technological tests, experiments and sites for regular environmental and climatic observation Aimag level reserve rangelands. 	<p>defense and diplomacy;</p> <ul style="list-style-type: none"> Needs for infrastructure construction for energy, transportation and water conservancy projects etc, organized and implemented by governments; Needs for public services organized and implemented by the governments, such as, science and technology, education, culture, health, sports, environment and resources protection, disaster prevention, cultural relics protection, social welfare and municipal public utilities; Needs for the welfare-oriented Comfortable House Project organized and implemented by the governments; Needs for the reconstruction of old town districts, such as, centralized rebuilding of hazardous house and improvement 	<p>built by state or local government:</p> <p>office buildings, plants, research institutes, test institutes, health or cultural facilities, parks, squares, athletic fields, markets, graveyards, crematories, slaughterhouses</p> <ul style="list-style-type: none"> For the public interest: schools, libraries, museums and art galleries; Housing, or creation of housing lots for the purpose of rent or transfer Pathways, bridges, electric lines, material storages and other accessory facilities required for implementing the above projects. Other projects under special legislation <p>Urban development projects, including private projects that serve a public purpose. Developer must own at least 2/3 of the area or have consent from 2/3 of the rest. If redevelopment, threshold is 95%.</p>		<p>If a binding land-use plan designates land for public purposes or restricted use, owner must be compensated to extent loss is suffered.</p>	<p>ensure the public interest and achieve socially important goals.</p> <p>Expropriation is not allowed if there is another way of meeting state needs.</p> <p>Expropriation is not allowed for commercial purposes of nongovernmental entities.</p> <p>Expropriation is permitted to implement concession projects.</p>				

Issue	ADB SPS	Mongolia – Current	People’s Republic of China	Republic of Korea	Canada – Province of Manitoba	Germany	Kazakhstan	Republic of Serbia	USA – State of Minnesota	Armenia	Cambodia
			<p>of infrastructure, organized and implemented by the governments according to relevant provisions in the Town and Country Planning Act;</p> <ul style="list-style-type: none"> Needs for other public interests stipulated in laws and administrative statutes. 								
2. Land tenure system		<p>Land is state-owned unless ownership rights have been granted. State-owned land can also be allocated to individual or enterprises under possession rights or land use rights. (1) <u>ownership</u>, granted only to citizens of Mongolia; (2) <u>possession</u>, granted under license, to Mongolian citizens, economic entities and organizations, for terms of 15 to 60 years, extendable up to 40 years at a time; (3) <u>use</u>, granted under contract or lease to foreign countries and legal entities. There are no customary or traditional lands.</p>	<p>The PRC practises socialist public ownership of land, namely, ownership by the whole people and collective ownership by the working people. Ownership by the whole people means that the right of ownership in State-owned land is exercised by the State Council on behalf of the State. Urban land is State-owned, so property is leased to users for up to 70 years; rural land is mainly collectively owned and farmland, forest and grazing land may be contracted to users for 30-50 years. Ownership or the right to the use of forest land or grassland and the right to the use of</p>	<p>Freehold title. The poor are usually renters (tenants)</p>	<p>Private ownership. Most single family houses are owner-occupied. Multiple dwellings units are condominiums or are rented.</p>	<p>Private ownership Leasehold (est. 40% of urban households)</p>	<p>Land is owned by the state. It can be transferred to private ownership, or rented to individuals, generally for 49 years.</p>	<p>Private ownership of buildings. Usually in urban areas land under buildings is state-owned. Owner of building has permanent right of use or long term lease right (max 99 years) over the land as long as the building exists.</p>	<p>Private ownership.</p>	<p>Private ownership</p>	<p>All land belongs to the state. Private property rights of possession, use and inheritance are recognized. Occupants may apply for Certificates of Possession and Use. Many occupants do not have legal titles. Their tenure is recognized by occupation and recognition by neighbours.</p>

Issue	ADB SPS	Mongolia – Current	People’s Republic of China	Republic of Korea	Canada – Province of Manitoba	Germany	Kazakhstan	Republic of Serbia	USA – State of Minnesota	Armenia	Cambodia
			water surfaces or tidal flats for aquaculture shall be confirmed respectively in accordance with the relevant provisions of the Forestry Law, the Grassland Law and the Fisheries Law.								
3. Legal framework		Constitution Law on Allocation of Land to Mongolian Citizens for Private Ownership Land Law Civil Code Law on Property Valuation	Land Administration Law 2004 and Housing Expropriation Regulation 2011, Forestry Law	Land Acquisition and Compensation Act (LACA) Urban Development Act	Expropriation Act	State Expropriation Acts (16) Federal Building Code	Land Code (Art 84) Law on State Property 2011 (Chapter 6) Law on Housing Relations (1997, amended in 2011) Labour Code	Expropriation Law 20xx Law on Planning and Construction	Minnesota Statutes Chapter 117 Eminent Domain Uniform Relocation Assistance and Real Property Acquisition Policies Act	Land Code (Art 102, 104) Civil Code (Art 218-221) Law on Expropriation of Property for Public and State Purposes	Expropriation Law (2010) Sub-decrees on grievance procedures and compensation process are contemplated in the law but not yet issued. Land Law: Those occupying state land after 30 August 2001 do not have the right to be recognized as legal occupants and are not entitled to compensation or social support if evicted. Government Circular No. 02 of 26 February 2007.
4. Entitlements											
Eligibility	Type 1 –persons with formal legal rights to land and/or structures lost entirely or in part; Type 2 - persons who have no formal legal rights to land and/or structures lost entirely or in part, but who have claims to such lands that are recognised or recognisable under	Owner of private land. Possessor under Land Law No entitlement under Land Law for private user	Registered owners or users, but not renters; unregistered people or houses are considered illegal but can be compensated	Owner of property Resident of house Tenant Business operator Compensation payable in cash, unless AP opts for replacement land or public housing.	Owner Tenant	Owner Holder of other rights in land, such as tenant Business owner	Registered private owner, leaseholder or holder of rights for permanent use.	Owner Holder of lease on socially or state-owned apartment Tenant	Owners and anyone with an interest in land (e.g. tenants, mortgage holders) If relocation required, minimum compensation for owner must be sufficient to purchase a comparable property in the community. Acquiring authority must not	Titled land owners only	Only persons recognized as legal occupants. Owner/right holder may accept replacement property.

Issue	ADB SPS	Mongolia – Current	People’s Republic of China	Republic of Korea	Canada – Province of Manitoba	Germany	Kazakhstan	Republic of Serbia	USA – State of Minnesota	Armenia	Cambodia
	the national laws Type 3 - persons who lost the land they occupy in entirety or in part who have neither formal legal rights nor recognised or recognisable claims to such land Requirements apply to all three types of displaced persons, though entitlements differ. Type 3 eligible for resettlement assistance and compensation for nonland assets.								require the owner to accept replacement property. Up to \$1500 for homeowner’s appraisal costs. Displaced persons: anyone lawfully occupying property – entitled to relocation assistance.		
Land compensation	Preference for land-for-land replacement. If replacement land not available, market value of plus transaction costs related to restoring assets (registration and transfer taxes) . Ensure security of tenure.	Private land: <ul style="list-style-type: none"> Market value Replacement land must not be worse in character and quality Possessor under Land Law <ul style="list-style-type: none"> Replacement land User Rights <ul style="list-style-type: none"> No compensation 	In rural areas, value is based on a minimum of 16 times average annual output value, but can be 30 times or more if decided by local gov’t. In suburban areas, value is much higher due to higher market prices; rates are set by local gov’t but are negotiable. Urban land and property is based on market value which varies by location.	Market value	Principle: after receiving compensation, the owner should be in the same economic position as before the expropriation. Market value Loss in value to remaining land remaining Loss of amenities such as trees and landscaping	Principle: compensation will give the owner the opportunity to acquire a comparable property. Market value Loss in value of remaining land. Increase in value of remaining land is a factor. Compensation in cash, except if owner’s livelihood depends on the property, then must be compensated in substitute property. (Difference in value compensated in cash.)	The amount the owner paid the state when the land was acquired plus cost of improvements made on the land (i.e. for improving fertility, market value of real estate situated in a plot-including fruit trees and perennial plantations, costs associated with the development of a plot, its maintenance, protection measures, enhancing soil fertility and losses to be incurred with premature termination of obligations to third parties). If the land was purchased from a private owner, then the purchase price specified in	If large area being expropriated, right to equivalent land in the same municipality. Owner may opt for cash compensation based on market value.	Market value. Loss in value of remaining land. Cost of environmental remediation deducted.	Market value plus 15%.	Market price or replacement cost.

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							the contract (not exceeding market value). If owner consents, a plot of equal value instead of cash compensation. (For temporary acquisition, land should be restored. Compensation should include costs of the operations associated with the construction of new or reconstruction of existing facilities and installations (systems)).				
Temporary land occupation for construction			This is regulated by the LAL Law. The maximum time is 2 years and contractors must pay a deposit for restoration costs. The compensation to APs is at least equivalent to annual output value of the land. Use of valuable land and demolition requirements is discouraged in favour of wasteland or vacant land.								
Tenants	As Type 3 category, eligible for resettlement assistance, including transitional rental support. Compensation at replacement cost for any structures constructed by	No provision	In practice, tenants are compensated for the remaining period of the lease. They may be eligible for moving expenses and assistance to find replacement housing. (Note, there is no specific	Relocation and moving expenses. Access to public rental housing.	(including businesses) Compensated for disturbance: related to length of time remaining in the lease. Moving costs paid.	Consequential losses calculated in regard to remaining term of the lease.	(Of state land) Amount of lease paid to the State (if fully paid), plus cost of improvements made on the land (i.e. for improving fertility irrigation, structures and losses to be	Compensation based on market rent for the nearest similar land.	Rental assistance: extra cost of comparable property. Moving expenses.	none	Allowance for disturbance: relocation expenses. No compensation if rent is higher.

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	tenant.		provision in the Housing Expropriation Regulation 2011).				incurred with premature termination of obligations to third parties.				
Business loss	<p>Compensation for the cost of re-establishing commercial activities elsewhere</p> <p>Compensation for lost net income during the period of transition</p> <p>Compensation for the costs of the transfer and reinstallation of the plant, machinery or other equipment</p> <p>Transitional support based on a reasonable estimate of the time required to restore their income-earning capacity, production levels, and standards of living</p> <p>Additional targeted assistance (credit facilities, training, or job opportunities) and opportunities to affected persons whose livelihoods or income levels are adversely affected (owners of businesses and employees are eligible)</p>	<p>No specific provision.</p> <p>For business operated by owner of land, may be covered as a “loss incurred due to the taking of the land”.</p>	<p>Businesses that are registered are compensated for business loss. Small business may receive 2-3 months profit and wages; larger enterprises will negotiate compensation based on production losses and non-movable assets. Non-registered (informal) businesses are treated as residential properties.</p>	<p>Must be occupying legitimate business premises</p> <p>Loss of profit and incidental losses</p>	<p>All the owner’s business losses are compensated. Determination is delayed until 6 months after starting business in the new location.</p>	<p>Lost profits and other consequential losses</p>	<p>Crop losses. Lost profit of <u>registered</u> businesses is considered in the valuation and compensation.</p>	<p>None.</p>	<p>Compensation for loss as a going concern, unless loss can be prevented by relocation in the same or a similar and suitable location.</p> <p>Reestablishment expense for farms/small businesses (max \$10,000).</p> <p>Fixed payment based on one year’s net earnings (max \$20,000).</p> <p>Loss of physical property (e.g. inventory).</p> <p>Moving expenses.</p>	<p>Crop losses for titled land owners</p>	<p>Tenant: compensation for impact on business operation and loss of invested capital. Owner: additional compensation for “loss in value of property”.</p>
House compensation	<p>Full replacement cost calculated based on the following</p> <p>(i) fair market value; (ii)</p>	<p>Market value (i.e. depreciation applied)</p> <p>User under Land Law may be entitled to</p>	<p>In urban areas, accredited appraisal companies are selected by affected persons</p>	<p>Legally permitted buildings only</p> <p>Market value (or if movable cost of relocation)</p> <p>Minimum</p>	<p>Market value (i.e. depreciation applied).</p>	<p>Market value (i.e. depreciation is applied)</p>	<p>“Market value”. If owner wishes, can choose replacement house from a list of available houses.</p>	<p>Owner has right to equivalent replacement house or apartment or business premise</p>	<p>Market value (depreciation applied)</p>	<p>Compensated, except for unregistered commercial buildings</p> <p>Market value (i.e.</p>	<p>Market price or replacement cost.</p>

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	transaction costs; (iii) interest accrued, (iv) transitional and restoration costs; and (v) other applicable payments, if any. Depreciation of structures and assets not taken into account.	compensation under Civil Code for non-movable assets built in accordance with the contract and with the proper permission..	to estimate compensation; these are based on local gov't rates and then adjusted for housing quality; the final amount is based on negotiated settlement. The gov't may also offer exchange housing (i.e., same house area in a new apartment building). In rural areas, unit rates are set by local gov't. Appraisal is often done by the local gov't. There is generally less negotiation.	compensation 5 million won (US4660)			(If replacement house is worth less, cash compensation for the difference.) Only those whose structures are legally registered are entitled to compensation.	nearby. (Difference in value to be paid, except if replacement house is worth more, house owner must agree.) Owner may opt for cash compensation at market value (i.e. depreciation applied). Lessee of socially or state-owned apartment is given another suitable such apartment.		depreciation applied)	
Relocation assistance	Compensate for relocation costs (moving allowances). Provide transitional support and development assistance	Relocation expenses compensated.	Allowances are paid for moving and transition periods. If exchange housing or housing in a new resettlement site is chosen, the local gov't provides the local service amenities and assists with relocation. Sometimes, a bonus is given to encourage people to move on time.	Relocation allowance and moving expenses. If there is a relocation site: choice of housing site, house, or relocation allowance. Moving expenses.	All disturbance damages paid, including moving and relocation expenses.	Moving expenses Not compensated: notarial deed cost, land registry fees, survey cost, transaction tax.	None.	None.	Cost of relocation	Not compensated.	No specific provision
Livelihood restoration	Provide displaced persons with opportunities to share project benefits .	No entitlement.	There are policy statements but so far there are only provisions for people with serious land loss, or are very poor. People are entitled to social insurance but must use some of the cash compensation to pay the premiums.	Compulsory only under special laws, including dams and new towns. May include vocational training, preferential hiring, sites for commercial use.	Not addressed.	Owner's temporary or permanent losses to profession or livelihood are compensated in cash.	Registered workers are entitled to one-month salary for loss of work.	None.	No provision	None	Below.
Vulnerable	Requirement to	No provision.	There are safety		Authority may	A Social Plan is	No provision.	Additional	Displaced persons	No provision	<u>May</u> receive

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persons	take into account any individuals or groups that may be disadvantaged or vulnerable – consultations and relocation assistance. Special measures in terms of consultation and development assistance may be needed to allow such groups to participate in resettlement planning meaningfully and to benefit from development opportunities.		nets for poor households and other vulnerable “Wubao” households provided by the government rather than the project entity. These provide assistance for new housing, transition and training. There are no specific provisions under the Land Administration Act or the Housing Expropriation Regulation.		make voluntary payments to persons displaced from houses or other buildings who are not otherwise entitled to compensation, for moving expenses or business loss.	required in connection with a binding land-use plan that will cause adverse effects, including having to move house, find other employment or relocate a business. Hardship allowances are to be given to tenants “in order to prevent or mitigate economic disadvantage”.		compensation may be paid depending on financial, personal or family circumstances that affect livelihood.	have right to advisory services concerning rights and relocation opportunities. Special consideration for low-income persons re rental assistance.		preferential treatment to obtain land for livelihood: through sale, lease, gift, usufruct (right to use and enjoy the fruits of the land for life), social land concessions, economic land concessions, or use permits.
5. Valuation methods	Replacement cost principle. No depreciation of structures and other assets.	Market value, according to the law. A methodology for property valuation is to be prescribed under the Law on Property Valuation. In current practice, the value offered is based on rates set by the government.	Originally, all rates were stipulated by gov’t. Over time, these were increased to reflect replacement value. Now, the gov’t rates are used as a floor price and compensation is based on market prices, which have escalated quickly in recent years. There is still debate over the valuation of rural land based on output value. Real estate valuers are used for urban housing.	Current market value. Based on existing use, not potential for future development. Official system of values that approximate market values. Two private sector appraisers are used. AP can recommend a third. Value conclusions are averaged.	Market value as determined by professional appraisers applying generally accepted valuation standards. Owner may hire own appraiser at expropriating authority’s expense. If no agreement can be reached, LVAC (below) makes binding decision.	Valuation based on the kind of land use that was probable before expropriation began. Urban development: proposed development’s effect on value is included as far as the market reflects it. In expropriation applicant’s last offer must be based on report of licensed valuer (sometimes specialist valuers needed) or the Valuation Committee (composed of valuation experts). Valuation standards are defined in the Valuation Ordinance.	Compensation amounts determined by valuation commission. Market value is to be defined by independent evaluator. There are general standards for compensation depending on the type of structure. For non-commercial structures, valuers use the cost method. For commercial structures, they use a combination of revenue method and comparative method. However, there are differences in specific formulas used by valuers for each type of method. In practice values	Market value. No valuation methodology is prescribed. Tax Administration carries out valuation for the expropriating authority.	Acquiring authority must obtain at least one appraisal. Appraiser must consult with owner, if possible. Appraisals divulged to owner. Owner may obtain appraisal. Valuation based on market values. Carried out by professional appraisers. If disputed, by disinterested experts appointed by the court.	Procedure outlined in Law on Real Estate Valuation. By licensed real estate valuers.	Values determined by independent committee or agent appointed by EC.

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							are below market.					
6. Institutional arrangements												
Mandates, roles & duties	Establish institutional arrangement responsibilities and mechanisms for carrying out the measures of the resettlement plan. Consider establishing a dedicated resettlement unit for projects with significant resettlement impacts. Provide necessary capacity building to ensure effective resettlement implementation. Use qualified and experienced experts to undertake resettlement planning.	State Great Khural: decision on land acquisition for i) State special protected areas, ii) border strips, iii) national defense and security purposes, iv) diplomatic missions and international organizations, and v) free trade zones. Cabinet: decision on land acquisition for all other purposes. Central government body (MRTCUD): enters into agreements with land possessors; makes proposals to Cabinet on land acquisition. Aimag/UB councils: comment on proposal made by Governor. Government body in charge of land administration (ALACGaC): Enter into agreements with land owners. Governors: (1) make proposals to ALACGaC, (2) enter into agreements with land possessors, (3) based on the Cabinet decision implement land acquisition through ALACGaC’s local office.	Ministry of Land and Resources (ML&R) must approve (i) land use and (ii) transfer to ownership. For urban resettlement, house demolition agencies are used although responsibility is now clearly with local gov’ts. For large water resources projects, a resettlement plan must be prepared and approved by Ministry of Water Resources and/or local Resettlement Agency. No such detailed plans are required for other projects.	Project operator is any public or private body that has been granted the authority to carry out a project. For urban development may be a specialized public enterprise. Receives authorization to proceed from government. APs form residents committee. Indemnity Committee (IC) established by head of local government. consisting of judges, lawyers, professors, officials, and at least 1/3 APs: consults on issues raised by APs. Minister of Construction and Transportation gives project approval, which authorizes start of expropriation procedures. Land Expropriation Committee (LEC) established by national government, consisting of impartial specialists: Local LECs by local government. LEC decides area to be expropriated, compensation, and related matters. If expropriation necessary, project	Ministries, local governments, school authorities, and utility companies have eminent domain power. No higher or independent approval is needed. For local bodies, the elected council decides. Provincial government has a specialized land acquisition agency that acts on behalf of all ministries. Local governments and other bodies carry out land acquisition and expropriation independently. Land Value Appraisal Commission (LVAC): specialized independent body that decides disputes about compensation.	Approval of binding land-use plan: <ul style="list-style-type: none"> Plan process / impact assessment: public and owner hearings Plan approved by municipality Expropriation: <ul style="list-style-type: none"> Special upper administrative authority (usually regional). Municipality requests the authority to expropriate. Preliminary proceedings: Authority consults the parties, determines whether legal requirements have been met and reasonableness of offer. If no agreed resolution, official procedure: hearing of the parties. Decision is subject to appeal to court.	powers. The ministry or authority requiring the land initiates the project, prepares feasibility study. Oblast and rayon review and comment. Executive body issues resolution on land acquisition (registered with Dept of Justice) Lower executive body administers LAR, establishes valuation commission. (In CAREC road project, the implementing agency relied solely on licensed valuator engaged by the detailed design firms. Rayon’s role is limited to issuing notices/acts on land acquisition. Or if alternative land is sought, oblast/rayon akimats provide the alternative land) Draft agreements must be approved by local representative body. Signed agreements registered with Dept of Justice. If owner disagrees, the lower executive body may file an expropriation case in court.	Plan must have been adopted under Law on Planning and Construction. Ministry of Finance authorizes the body requiring the land to undertake preparatory operations. Republic Government makes declaration of common interest. Municipal land department accepts the proposal for expropriation, conducts expropriation proceedings, including hearing and negotiating with the owner, and approves the proposal, including compensation provisions.	Acquiring authority investigates, obtains appraisals, attempts to negotiate.* If agreement not reached, acquiring authority petitions the court to appoint commissioners to appraise damages due to taking land. Court appoints 3 disinterested commissioners.	State agency that requires land makes request to Government. Government Decree determines exclusive public and state priority. President ratifies. Acquiring state agency implements land acquisition. If AP does not agree with compensation offered, acquiring state agency must apply to court, which appoints independent valuer.	Acquiring ministry makes proposal. Expropriation Committee (EC), chaired by Ministry of Economy and Finance, prepares expropriation project proposal after consultation and interviews with concerned parties. Presents it to Government. Government approves. EC issues expropriation declaration, decides ownership and land rights, compensation, and sets deadline for vacating property. Expropriation Subcommittees at provincial and municipal levels, chaired by governors. Role not described. Sub-decrees to determine organization and functioning of EC and Subcommittees.	

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				operator applies to Minister of Construction and Transportation for approval.							
Grievance redress mechanism	Set up a grievance redress mechanism to receive and facilitate timely resolution of affected persons’ concerns.	Complaints to governors and higher officials.	There is a regulation called "Letters and Visits" which gives procedures for making complaints to gov't. Nonetheless, the system is quite rigid. People often prefer to negotiate with the project agency, as they have more leverage. Under the new Housing Expropriation Regulation, negotiation will now only be with the local government rather than an intermediary. If APs at not satisfied with decisions of government agencies, they can take their case either to administrative courts or to civil courts; however, this is not very common because the regulatory provisions are quite detailed and clearly specified. Before a dispute over ownership of land or the right to the use of land is solved, no party may alter the condition in which the land is being used.	IC resolves most grievances. LECs adjudicate if expropriation proceeds. If local LEC decision, can be appealed to national LEC. Appeal to court claiming unlawful or unjust decision by LEC.	Inquiry officer: appointed by Minister if owner objects to the necessity of the expropriation. Decision is only a recommendation. LVAC: decides compensation.	Upper administrative authority Judicial review.	Owner may appeal to local executive body. Court.	Complaints decided by Ministry of Finance. If no agreement within 2 months of expropriation order, then municipal court sets compensation.	Court only. Owner may challenge public use or public purpose.	AP has 10 days after receiving minutes of proposed compensation to protest with the acquiring state agency.	Grievance Redress Committee led by Ministry of Land Management, Urban Planning and Construction, composed of relevant ministries. Sub-decree to determine organization and functioning. Owner or holder of legal right may file a complaint within 30 days of the expropriation declaration against the need for the land in the public or national interest. No right to file complaint if taking is for national roads, bridges, railway, transmission and distribution systems, pipelines, drainage or irrigation. Complaints about compensation or other matters: may be made to EC or Grievance Redress Committee. EC decision may be appealed to Grievance Redress Committee. Finally to court.
Monitoring	Monitor and		There is	LAR procedures	None.	Not addressed in	None	Minister of Finance	Court only.	None	None.

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requirements	measure the progress of implementation of resettlement. Monitoring to include assessment of resettlement outcomes and impacts on standards of living of the displaced persons, and whether objectives of resettlement plan have been achieved.		monitoring of payments and regular auditing. Social monitoring is not required. Large water resource project have special requirements for supervision.	are reported regularly. Records disclosed to public. After completion, inspection to verify whether LAR was implemented as planned.		urban development or expropriation legislation.		sets requirements for record-keeping. Municipal authorities must provide consolidated data to MoF quarterly. There is no provision for AP or public access to such records.			
Consultation requirements	Conduct meaningful consultation with all stakeholders. Inform all displaced persons of their entitlements and resettlement options.		The legislation has provisions for consultation but there are no detailed procedures, except for official notifications to APs, which is done in a two-step process. There is also a provision for public hearings but these are not common, as most negotiation is done with individuals.	LAR plan must be prepared in consultation with APs. Project operator, APs and third-party experts participate in Indemnity Councils.	None in expropriation law. Required for major projects by environmental and urban planning law. Consultation is carried out in practice in order to minimize impacts and promote agreement with owners.	At planning stage.	Valuation commission includes officials and land owners. Affected owners also should be notified officially at least 1 year prior to actual acquisition.	None.	Not in eminent domain law.	APs participate in compilation of minutes of acquiring state agency prior to calculation of compensation.	Prior to making expropriation project proposal, EC must organize public consultations.
National vs local authority		Local authorities have no independent land acquisition powers. They assist in the land acquisition process.	National ministries set the policy and laws; local governments issue regulations and standards of compensation. ML&R supervises local gov't land bureaus since 2005.	Project operator can be national or local government body. Local government has a procedural role in all projects. Expropriation requires approval of the Minister.	Each is autonomous with respect to land acquisition and expropriation, except that local government cannot expropriate higher authority's land.	Municipal development plan must be approved by higher-level authority. Authorization to expropriate given by special higher-level body.	Local executive bodies have eminent domain powers. They are involved administratively in all land acquisition projects (as above).	Expropriation cannot start without MoF authorization and Republic's declaration of common interest. All expropriations are implemented by municipal authorities.	State and local authorities have independent land acquisition and eminent domain powers, neither subordinate to the other. Local authorities are bound by state law on eminent domain (with some exceptions).	Local government appears to have no role.	No apparent local authority role.
7. Private sector involvement		None	Very limited. They must acquire land through gov't. In urban areas, lands are assembled by gov't real estate companies and	Private sector company can be appointed as project operator for urban development or redevelopment	None, except pipeline, electric power and telecommunication companies.	Private sector has no role in the expropriation process. Land can be expropriated by government in	None. There are private-sector initiated projects (i.e. gas pipelines) where the private sector paid compensation	None.	Private utility corporations may exercise eminent domain. Otherwise private sector has no role.		None in the law. In practice, land is expropriated by the Government and turned over to private developers.

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			then sold to housing developers by bidding. Private entities may offer additional provisions to APs, including livelihood opportunities.	project. Presidential Decree covers requirements for procurement, agreement, security, etc. Private sector project operator can be given approval to expropriate.		favour of a private party implementing a public purpose.	both to APs and the rayons.				
8. Experiences											
Good features			There is abundant experience since the mid 1980s and steady improvements were required to improve policy, regulations, compensation standards, implementation procedures and supervision. Most agreements are now based on negotiations but transparency promotes more equitable settlements. The funds are made available and generally are fully paid prior to displacement.	LAR plan preparation procedures are spelled out in the law. On-site examinations are conducted with cooperation of APs or residents committee. Valuations by certified private sector appraisers rather than government officials. Grievance redress procedures are thorough. Monitoring of implementation of LAR plan, with results publically disclosed.	Thorough coverage of governance, procedures, administration and principles of compensation. Procedures are simple, accountability clear. Disputes about compensation do not delay land acquisition. Owners’ legal and appraisal expenses are compensated. As a result, APs are empowered. Court oversight is effective.	Thorough coverage of governance, procedures, administration and principles of compensation. Consultation on binding land-use plans. Independent confirmation that authority has made reasonable attempt to avoid expropriation, followed the proper procedures, and that expropriation is needed to implement a public purpose. Court review on same principles. Compensation provisions are thorough. Provision for livelihood restoration and vulnerable persons.	Expropriating authority must go to court for approval. State cannot take possession of the land until the owner has received compensation.	A simple process. Bank guarantee covering compensation.	Simple land acquisition and eminent domain procedures. Court supervision is effective. Acquiring authority has to have court approval. Easy access by APs.	Security deposit for compensation.	National body responsible for land acquisition.
Problems and constraints			Increasingly, people refuse to move or accept the amount of compensation offered. This causes project delays and may	Consultation is lacking on the urban development plans that are implemented in projects. Vulnerable	There is little or no disincentive for owners to appeal to LVAC, since all costs are reimbursed.	None identified.	Compensation valuations are inherently unfair and confiscatory.	No relocation expenses or business losses are compensated. No consultation with APs. No compensation for unlicensed	Business losses are not fully compensated.	Abuse reported. Only titled APs are compensated. Business losses and relocation expenses are not compensated. Despite the law	Abuse of expropriation and eviction power has been reported and documented. Open-ended definition of public interest.

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			need to be settled by court action, which local gov’ts seem reluctant to do. They prefer to convince the APs to reach agreement. The result has been rising costs for LAR (sometime 50% of the cost of urban infrastructure developments).	persons are given no recognition. No monitoring of impacts after resettlement.				occupants. Diffusion of land acquisition responsibility at the local level, leading to inconsistent application of compensation standards on projects located in multiple local jurisdictions (e.g regional road projects).		requiring expropriation to be for exceptional public and state priority need, because of corruption and conflicts of interest land is expropriated and turned over for private development.	Disentitlement of those without land rights, including anyone who occupied state land after 30 August 2001. No requirement to try to reach agreement with APs. Law vague and incomplete. Due to corruption and conflicts of interest impartial implementation of the laws and regulations by the Government and fair interpretation by the judiciary are unlikely.
Lessons for Mongolia			Specific regulations that can be implemented by officials. Notifications and transparency can help reach agreements, otherwise there is greater mistrust and delays. Propaganda is used to gain public support. 4. Close supervision of payments and auditing system. Strict enforcement of misconduct by officials, but protection if procedures are strictly followed. With rapid economic development, peoples' expectations for compensation can rise to	Specialized government enterprise to execute urban development and resettlement more efficiently. Neutral organization for conflict resolution.	Importance of rule of law and good governance. Consider appropriateness of independent specialized oversight body.	Consultation on master and detailed plans is important. Consider methods of independent oversight. Livelihood restoration and vulnerable persons.	Compensation provisions are unsupportable. Consider court approval for expropriation.	Importance of complementary legislation to address shortcomings in land acquisition (expropriation legislation. Consultation on master and detailed plans. Danger in fragmenting land acquisition and resettlement implementation responsibility. Importance of effective registration of property rights. Treatment of vulnerable groups.	Importance of strong rule of law, independent and informed judiciary, professional appraisers.		Consider national body responsible for land acquisition. Danger in empowering state authorities and officials where there is corruption and weak rule of law.

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			unreasonable levels. Benefit sharing has not been widely considered; normally it is only a means to forego adequate upfront payments.								
9. Other issues relevant to Mongolia											
Land readjustment			There has been widespread urban redevelopment which was made possible by top-down planning and approval system. This has now come under closer scrutiny.	Under Urban Development Act. If there are holdouts, then LACA applies to expropriation proceedings.	No provision.	Part 4 Federal Building Code. May be carried out to create plots suitable in terms of location, shape or size for built development or other uses. In accordance with a binding land-use plan. No threshold of agreement is required. Those who do not agree are compensated in accordance with expropriation laws.		Not contemplated.	Not contemplated.	Not contemplated.	Not provided for.
Financing of resettlement	Project proponent to provide adequate contingency funds to address involuntary resettlement impacts identified during project implementation. Ensure that such funds are readily available.		Despite high costs, project owners are required to ensure LAR costs are fully budgeted and paid upfront. Even when LAR costs increase, additional funds are made available; otherwise, the progress stops.	All costs are included in project costs, and must be paid in advance.	Project cost incurred by acquiring body.	Project cost.	From the “republican budget” if national project. If local, then from akimat budget. For projects with private-sector involvement, funds for compensation are sometimes provided by the private sector.	Project cost. Expropriating body must submit commercial bank guarantee covering compensation.	Project cost.	Project cost. In expropriation proceedings, acquiring state agency must deposit compensation offered with court or notary in advance.	Compensation comes from budget of EC (rather than project implementer).

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