



## Subproject Proposal

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Project Number: 44140  
July 2011

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

MON: Improving Legal and Regulatory Framework  
for Environmental Impact Assessment

**TA 7566-REG: Strengthening and Use of Country Safeguards Systems  
SUBPROJECT PROPOSAL**

<b>A. Basic Data</b>
1. Date: 19 July 2011
2. Subproject Title: MON: Improving Legal and Regulatory Framework for Environmental Impact Assessment
3. Subproject Officer: Laurence Pochard, Principal Project Management Specialist, MNRM
4. Division/Department: MNRM
5. Country/Region: MON
6. Implementing Organization: MNRM, ADB
7. Amount Requested: \$250,000
8. Period this funding request will cover: July 2011 to July 2012
<b>B. Name and Description of Implementing Organization</b>
MNRM will be the implementing organization.
<b>C. Subproject Description</b>
<b>1. Background and Rationale:</b>
<p>The Law on Environmental Impact Assessment (EIA) was promulgated in 1998, amended in 2001 and 2009 to regulate environmental protection practices, to prevent ecological misbalance through uses of natural resources, and to assess environmental impacts and decision-making at projects start. In addition, currently there are four regulations in place to implement the Law on EIA that regulate issues concerning the stakeholders duties on monitoring EIA implementation, issuing licenses to private companies, receiving and evaluating EIA reports, content of EMP, structure and responsibilities of EIA committee, EIA decision making procedures, etc. The existing four regulations are (i) Regulation on Monitoring EIA Implementation, (ii) Regulation on EIA Evaluation, (iii) Regulation on Formulating Environmental Management Plan and Environmental Monitoring Program (EMP), and (iv) Regulation on EIA Committee.</p> <p>Although EIA legislation is in place, there is a gap between the EIA law and its implementation. Existing regulations lack clarity, in particular with respect for procedures for implementing some of the key provisions of the EIA Law. These weak regulations have resulted in a weak enforcement mechanism and poor environmental management practices. The EIA practice during the past years shows that projects often do not comply with environmental management plans, and mitigation measures are not taken by project implementers to reduce adverse environmental impacts. To address this situation the government is proposing new mechanisms to ensure for implementation of environmental management plans. One proposed mechanism would see project proponents as post a deposit of at least 50% of money required for environmental management plans in local authority accounts for environmental protection and rehabilitation.</p> <p>Environmental researchers and NGOs have done studies in different regions of Mongolia and concluded that project level EIAs have limitations. It is been recommended that strategic environmental assessments should be conducted to protect habitat and biodiversity on landscape and regional scales. The government already attempted to adopt SEA to ensure environmental consequences, considerations identified and incorporated into the regional policy and conduct SEAs in various sectors; however, lack of experiences and technical knowledge hindered government's efforts. Further, a new Regulation on Public Participation needs to be developed to regulate issues concerning public participation in EIA processes in details with concrete requirements. Regarding the current EIA Law, there is a provision on involvement of citizens and governors of administrative units in EIA processes. However, it has not been implemented due to absence of a regulation approved by the government which guides details such as how, in which stage, and to what degree affected people should participate in EIA processes.</p> <p>Donors started to assist in Mongolia's environmental assessment related laws and regulations since about 2005. A project financed by UNDP and the Netherlands Government supported the MNET on SEA, EIA and environmental auditing and conducted a valuable study on these issues. The study emphasized that lack of sectoral integration in decision making on use of natural resources became a major problem in Mongolia and recommended the government to introduce SEA in its environmental governance in order to have a possibility to consider environmental, economic and social issues as holistic way in development and investment</p>

projects to support implementation of national sector programs. Also, the study suggested improving public participation in EIA processes by involving local people in formulation of terms of references for EIAs and providing proper access to EIA reports. Further, the Netherlands Government and World Bank project NEMO developed recommendations for the revised Law on EIA in 2009. The recommendations included three new concepts which are SEA, public participation in EIA processes and monitoring requirements for EIA.

Considering the needs and recommendations, currently, the MNET's Department of Environment and Natural Resources is revising the EIA Law based on the recommendations from NEMO project to improve EIA practice in Mongolia. The revised Law on EIA is expected to be passed by Parliament in 2011. According to revised EIA law, new development programs and plans will require environmental assessments such as SEA, and EIA will include recommendations for projects to use environment friendly methods and technologies. Also, the new EIA law will include considerable changes in sanctions regarding insufficient quality of EIA and compliance with environmental management plans.

After effectiveness of the new EIA law, four existing regulations need to be revised and combined into two regulations that are (i) Regulation on EIA procedures and (ii) Regulation on Formulating Environmental Management Plan. In addition to existing regulations, three new regulations need to be formulated which are (i) Regulation on Strategic Environmental Assessment; (ii) Regulation on Public Participation in EIA Processes; and (iii) Regulation on Making a Deposit for Environmental Restoration.

MNET has requested ADB's assistance for preparation of the implementing regulations for the revised Law on Environmental Impact Assessment (see letter in appendix 2). MNRM staff have had a series of meetings and consultation with MNET's Department of Environment Natural Resources during preparation of the project proposal.

**2. Outcome(s):**

Improved regulations for implementation on the environmental impact assessment law.

**3. Outputs:**

The following outputs are expected:

- Output 1. Recommendations for Regulation on Strategic Environmental Assessment.
- Output 2. Recommendations for Regulation on Public Participation in EIA processes.
- Output 3. Recommendations for Regulation on Making a Deposit for Environmental Restoration.
- Output 4. Recommendations for Revised Regulation on EIA procedures.
- Output 5. Recommendations for Revised Regulation on Formulating Environmental Management Plan.

The subproject will improve EIA regulations and increase stakeholder awareness on new EIA law and regulations. Output 1-3 will formulate three new implementing regulations and Output 4-5 will revise two existing EIA regulations. The proposed regulations will be compared with international standards and will incorporate international good practices. Output 1-5 include consultation meetings with stakeholders on the proposed changes and the implications of new and revised regulations.

#### **4. Key Activities and Inputs**

The following activities will be carried out to achieve the outputs:

##### **Output 1 - Recommendations for Regulation on Strategic Environmental Assessment**

- (i) A review of the relevant provision in the new EIA Law to arrive at a common understanding of the meaning and intent of the provision relevant to SEA.
- (ii) A review of other relevant existing environmental legislation and regulations, and the results of previous donor assistance (e.g. UNDP, WB, and Netherlands) and NGO studies on strategic environmental assessment;
- (iii) Study of international experiences in implementing strategic environmental assessment to identify key constraints and the enabling environment for its effective implementation;
- (iv) Preparation of recommendations for the draft Regulation on Strategic Environmental Assessment;
- (v) A comparative analysis of the draft regulation and international best practices, and recommended changes to ensure consistency with the new EIA law while taking into account applicable international best practices;
- (vi) Multi-stakeholder consultations and workshops to discuss the implications of the new regulation and identify potential issues;
- (vii) Assessment of institutional capacity development needs for implementation of the regulation; and
- (viii) Finalization of recommendations for the draft Regulation on SEA, incorporating stakeholders' comments and recommendations.

##### **Output 2 - Recommendations for Regulation on Public Participation in EIA processes**

- (i) A review of the relevant provision in the new EIA Law to arrive at a common understanding of the meaning and intent of the provision relevant to public participation.
- (ii) A review of other relevant existing environmental legislation and regulations, and the results of previous donor assistance (e.g. UNDP, WB, and Netherlands) and NGO studies on public participation in EIA processes;
- (iii) Study of international experiences in implementing Public Participation in EIA processes to identify the constraints and the enabling environment for its effective implementation;
- (iv) Preparation of recommendations for the draft Regulation on Public Participation in EIA processes;
- (v) A comparative analysis of the draft regulation and international best practices, and recommended changes to ensure consistency with the new EIA law while taking into account applicable international best practices;
- (vi) Multi-stakeholder consultations and workshops to discuss the implications of new regulations and identify potential issues;
- (vii) Assessment of institutional capacity development needs for implementation of the regulation; and
- (viii) Finalization of recommendations for the draft Public Participation in EIA processes, incorporating stakeholders' comments and recommendations.

##### **Output 3 - Recommendations for Regulation on Making a Deposit for Environmental Restoration**

- (i) A review of the relevant provision in the new EIA Law to arrive at a common understanding of the meaning and intent of the provision relevant to making a deposit for environmental restoration.
- (ii) A review of other relevant existing environmental legislation and regulations, and international experiences on making a deposit of funds to pay for environmental restoration; to identify the constraints and the enabling environment for its effective implementation;
- (iii) Preparation of recommendations for the draft Regulation on Making a Deposit for Environmental Restoration;
- (iv) A comparative analysis of the draft regulation and international best practices, and recommended changes to ensure consistency with the new EIA law while taking into account applicable international best practices;
- (v) Multi-stakeholder consultations and workshops to discuss the implications of new regulations and identify potential issues;
- (vi) Assessment of institutional capacity development needs for implementation of the regulation; and

- (vii) Finalization of recommendations for the draft Regulation on Making a Deposit for Environmental Restoration, incorporating stakeholders' comments and recommendations.

**Output 4 - Recommendations for Revised Regulation on EIA procedures**

- (i) A review of the relevant provision in the new EIA Law to arrive at a common understanding of the meaning and intent of the provision relevant to the regulation on EIA procedures.
- (ii) A review of the strengths and weaknesses of relevant existing environmental laws and regulations, in particular, environmental protection and environmental impact assessment;
- (iii) A review of international experiences on EIA procedural requirements, monitoring of implementation, EIA evaluation, and committee for EIA evaluation;
- (iv) Preparation of recommendations for the draft Regulation on EIA procedures;
- (v) A comparative analysis of the draft regulation and international best practices, and recommended changes to ensure consistency with the new EIA law while taking into account applicable international best practices;
- (vi) Multi-stakeholder consultations and workshops to discuss the implications of new regulations and identify potential issues;
- (vii) Assessment of institutional capacity development needs for implementation of the regulation; and
- (viii) Finalization of recommendations for the draft Regulation on EIA procedures, incorporating stakeholders' comments and recommendations.

**Output 5 - Recommendations for Revised Regulation on Formulating Environmental Management Plan**

- (i) A review of the relevant provision in the new EIA Law to, among others, arrive at a common understanding of the meaning and intent of the provision relevant to the formulation of an EMP;
- (ii) A review of other relevant existing environmental legislation and regulations, and international experiences on formulating environmental management plan and environmental monitoring programs
- (iii) Preparation of recommendations for the draft Regulation on Formulating Environmental Management Plan;
- (iv) A comparative analysis of the draft regulation and international best practices, and recommended changes to ensure consistency with the new EIA law while taking into account applicable international best practices;
- (v) Multi-stakeholder consultations and workshops to discuss the implications of new regulations and identify potential issues;
- (vi) Assessment of institutional capacity development needs for implementation of the regulation; and
- (vii) Finalization of recommendations for the draft Regulation on Formulating Environmental Management Plan, incorporating stakeholders' comments and recommendations.

## **5. Implementation Arrangements, Timetable, and Reporting Plan**

The subproject will be administered by MNRM and led by Laurence Pochard (Principal Project Management Specialist, MNRM) with technical support from Bayarmaa Byambaa (Environment Specialist, MNRM).

Staff of the Department of Environment and Natural Resources of MNET will participate in the revision and formulation of EIA regulations and will be responsible for approval of the regulations by the government. MNET will participate and give presentations in workshops and discussions, provide necessary information about environment sector development, coordinate with government agencies working in the field of environment and receive approval of the revised and newly formulated regulations from the government.

A Working Group including individual consultants and MNET officers will be established to formulate EIA regulations and will be guided by a Subproject Committee. The Subproject Committee will have members from ADB, MNET, Mongolian Association of Environmental Assessors<sup>1</sup>, and Mongolian Environmental Civil

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<sup>1</sup> Mongolian Association of Environmental Assessors is a NGO representing private companies licensed to conduct EIA.

Council<sup>2</sup>(MECC). Individual consultants will be engaged by ADB and will be responsible for revising existing regulations and developing new EIA regulations in cooperation with MNET officers. Consultants will be also in charge of organizing meetings, workshops and compiling EIA guidelines. The Outline Terms of Reference for individual consultants is attached in Appendix 3. MNET will share the draft and new EIA law with the Working Group and Subproject Committee.

Consultants will be recruited as individuals and engaged by ADB in accordance with its *Guidelines on the Use of Consultants* (2010, as amended from time to time). Disbursements will conform to ADB's *Technical Assistance Disbursement Handbook* (May 2010, as amended from time to time). Procurement of equipment will follow ADB's *Procurement Guidelines* (April 2010, as amended from time to time).

The subproject will start in August 2011 and will be completed by July 2012. The timing of proposed activities is shown in Section F. MNRM will prepare semi-annual reports and a subproject completion report and will submit to RSES.

Because the regulations depend on the EIA Law, during implementation, the number and types of regulations may need to be adjusted depending on the requirements of the approved EIA Law. Also, because some activities require that the new EIA Law has already been approved, the timetable may also need to be adjusted to accommodate the approval of the EIA Law. However, the changes in scope and schedule will not affect the Outcome, the nature of the Outputs, and implementation arrangements.

#### **6. Subproject Completion and Information Dissemination**

The result of this subproject will be 3 new and 2 revised regulations on EIA process. Government organizations, NGOs, private companies licensed to conduct EIA and other private companies from different sectors like mining, construction, agriculture, etc. will participate in consultation meetings to discuss issues and implications of the proposed EIA regulations. The subproject will cooperate with MECC, which is an umbrella organization that unites 541 environmental NGOs, and will disseminate information about legal changes through MECC to their member NGOs. The approved regulations will be compiled, printed and distributed to the public, and will also be available on the internet. The subproject completion report will be posted on ADB website to inform the public of the subproject's results.

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<sup>2</sup> Mongolian Environmental Civil Council is an umbrella organization that unites 541 NGOs working actively in the field of environment in Mongolia.

**D. Subproject Eligibility**

See Appendix 1.

**E. Cost Estimate**

Item	TA 7566 Contribution (\$)	GOM Contribution (\$)	Total (\$)
1. Consultants			
a) Remuneration and per diem	135,000		135,000
i) International consultants	70,000		70,000
ii) National consultants	65,000		65,000
b) International and local travel	15,000		15,000
2. Equipment and office space*	10,000	In-kind (5,000)	15,000
3. Trainings, workshops and consultation meetings***	55,000	In-kind (10,000)	65,000
4. Administration and support costs**	20,000		20,000
5. Staffing		In-kind (10,000)	10,000
Contingency	15,000		15,000
<b>Total Expenses</b>	<b>250,000</b>	<b>25,000</b>	<b>275,000</b>

\* Office furniture, computer, printer, etc.

\*\* Includes the cost for translation and resource persons

\*\*\* - Multi-stakeholders consultations to discuss proposed legal changes – at least 5 consultation meetings;  
 - Multi-stakeholders workshops to discuss proposed legal changes – 1 workshop for 2 regulations; total of 3 workshops;  
 - Consultations will take place in the MNET's conference room and workshops will take place in hotels in Ulaanbaatar and 30-50 participants will attend each workshop and consultation.

**F. Proposed Subproject Monitoring Framework**

<i>Design Summary</i>	<i>Performance Targets/Indicators</i>	<i>Data Sources/Reporting Mechanisms</i>	<i>Assumptions/Risks</i>
<i>Outcome</i> Improved regulations for implementation on the environmental impact assessment law	<ul style="list-style-type: none"> <li>• New and revised regulations approved</li> <li>• Public participation in EIA processes improved</li> <li>• Quality of EIA improved</li> </ul>	<ul style="list-style-type: none"> <li>• Survey of local community representatives</li> <li>• Database of EIA reports</li> </ul>	<i>Assumptions</i> The government has capacity to implement the new and revised regulations
<i>Outputs</i> 1) Recommendations for Regulation on SEA 2) Recommendations for Regulation on Public Participation in EIA processes 3) Recommendations for Regulation on Making a Deposit for Environmental Restoration 4) Recommendations for Revised Regulation on EIA procedures 5) Recommendations for Revised Regulation on Formulating Environmental Management Plan	<ul style="list-style-type: none"> <li>• Two revised regulations</li> <li>• Three new EIA regulations</li> <li>• Workshops, and consultation meetings</li> </ul>	<ul style="list-style-type: none"> <li>• List of approved regulations</li> <li>• Survey of NGOs, EIA private companies and government agencies representatives</li> </ul>	<i>Risks</i> Stakeholders (GOM, private sector, NGOs) do not reach a consensus on the proposed changes in the EIA legislations

<i>Activities with Milestones</i>	<i>Inputs</i>
<p><u>Output 1</u> - Recommendations for Regulation on Strategic Environmental Assessment</p> <ul style="list-style-type: none"> <li>(i) A review of the relevant provision in the new EIA Law to arrive at a common understanding of the meaning and intent of the provision relevant to public participation (Aug-Oct 2011);</li> <li>(ii) A review of other relevant existing environmental legislation and regulations, and the results of previous donor assistance (e.g. UNDP, WB, and Netherlands) and NGO studies on strategic environmental assessment (Aug-Oct 2011);</li> <li>(iii) Study of international experiences in implementing strategic environmental assessment to identify key constraints and the enabling environment for its effective implementation (Oct-Nov 2011);</li> <li>(iv) Preparation of recommendations for the draft Regulation on Strategic Environmental Assessment (Nov 2011-Jan 2012);</li> <li>(v) A comparative analysis of the draft regulation and international best practices, and recommended changes to ensure consistency with the new EIA Law while taking into account applicable international best practices (Oct-Dec 2011);</li> <li>(vi) Multi-stakeholder consultations and workshops to discuss the implications of the new regulation and identify potential issues (Oct 2011-Jan 2012);</li> <li>(vii) Assessment of institutional capacity development needs for implementation of the regulation (Feb-Mar 2012); and</li> <li>(viii) Finalization of recommendations for the draft Regulation on SEA, incorporating stakeholders' comments and recommendations (Feb-Mar 2012).</li> </ul>	<p>\$250,000 ADB \$25,000(in-kind) MNET</p>
<p><u>Output 2</u> - Recommendations for Regulation on Public Participation in EIA processes</p> <ul style="list-style-type: none"> <li>(i) A review of the relevant provision in the new EIA Law to arrive at a common understanding of the meaning and intent of the provision relevant to public participation (Aug-Oct 2011);</li> <li>(ii) A review of other relevant existing environmental legislation and regulations, and the results of previous donor assistance (e.g. UNDP, WB, and Netherlands) and NGO studies on public participation in EIA processes (Aug-Oct 2011);</li> <li>(iii) Study of international experiences on in implementing Public Participation in EIA processes to identify the constraints and the enabling environment for its effective implementation (Oct-Nov 2011);</li> <li>(iv) Preparation of recommendations for the draft Regulation on Public Participation in EIA processes (Nov 2011-Jan 2012);</li> <li>(v) A comparative analysis of the draft regulation and international best practices, and recommended changes to ensure consistency with the new EIA Law while taking into account applicable international best practices (Oct-Dec 2011);</li> <li>(vi) Multi-stakeholder consultations and workshops to discuss the implications of new regulations and identify potential issues (Oct 2011-Jan 2012);</li> <li>(vii) Assessment of institutional capacity development needs for implementation of the regulation (Feb-Mar 2012); and</li> <li>(viii) Finalization of recommendations for the draft Public Participation in EIA processes, incorporating stakeholders' comments and recommendations (Feb-Mar 2012).</li> </ul>	
<p><u>Output 3</u> - Recommendations for Regulation on Making a Deposit for Environmental Restoration</p> <ul style="list-style-type: none"> <li>(i) A review of the relevant provision in the new EIA Law to arrive at a common understanding of the meaning and intent of the provision relevant to making a deposit for environmental restoration (Aug-Oct 2011);</li> <li>(ii) A review relevant existing environmental legislation and regulations, and of international experiences on making a deposit of funds to pay for environmental restoration to identify the constraints and the enabling environment for its effective implementation (Aug-Oct 2011);</li> <li>(iii) Preparation of recommendations for the draft Regulation on Making a Deposit for Environmental Restoration (Nov 2011-Jan 2012);</li> <li>(iv) A comparative analysis of the draft regulation and international best practices, and recommended changes to ensure consistency with the new EIA Law while taking into account applicable international best practices (Oct-Dec 2011);</li> <li>(v) Multi-stakeholder consultations and workshops to discuss the implications of new regulations and identify potential issues (Oct 2011-Jan 2012);</li> <li>(vi) Assessment of institutional capacity development needs for implementation of</li> </ul>	



<p>(vii) the regulation (Feb-Mar 2012); and Finalization of recommendations for the draft Regulation on Making a Deposit for Environmental Restoration, incorporating stakeholders' comments and recommendations (Feb-Mar 2012).</p> <p><b>Output 4 - Recommendations for Revised Regulation on EIA procedures</b></p> <p>(i) A review of the relevant provision in the new EIA Law to arrive at a common understanding of the meaning and intent of the provision relevant to the regulation on EIA procedures (Aug-Oct 2011);</p> <p>(ii) A review of the strengths and weaknesses of relevant existing environmental laws and regulations, in particular, environmental protection and environmental impact assessment (Aug-Oct 2011);</p> <p>(iii) A review of international experiences on EIA procedural requirements, monitoring and implementation, EIA evaluation, and committee for EIA evaluation</p> <p>(iv) Preparation of recommendations for the draft Regulation on EIA procedures (Nov 2011-Jan 2012);</p> <p>(v) A comparative analysis of the draft regulation and international best practices, and recommended changes to ensure consistency with the new EIA Law while taking into account applicable international best practices (Oct-Dec 2011);</p> <p>(vi) Multi-stakeholder consultations and workshops to discuss the implications of new regulations and identify potential issues (Oct 2011-Jan 2012);</p> <p>(vii) Assessment of institutional capacity development needs for implementation of the regulation (Feb-Mar 2012); and</p> <p>(viii) Finalization of recommendations for the draft Regulation on EIA procedures, incorporating stakeholders' comments and recommendations (Feb-Mar 2012).</p> <p><b>Output 5 - Recommendations for Revised Regulation on Formulating Environmental Management Plan</b></p> <p>(i) A review of the relevant provision in the new EIA Law to, among others, arrive at a common understanding of the meaning and intent of the provision relevant to the formulation of an EMP (Aug-Oct 2011);</p> <p>(ii) A review of relevant existing environmental legislation and regulations, and international experiences on formulating environmental management plan and environmental monitoring programs (Aug-Oct 2011);</p> <p>(iii) Preparation of recommendations for the draft Regulation on Formulating Environmental Management Plan (Nov 2011-Jan 2012);</p> <p>(iv) A comparative analysis of the draft regulation and international best practices, and recommended changes to ensure consistency with the new EIA Law while taking into account applicable international best practices (Oct-Dec 2011);</p> <p>(v) Multi-stakeholder consultations and workshops to discuss the implications of new regulations and identify potential issues (Oct 2011-Jan 2012);</p> <p>(vi) Assessment of institutional capacity development needs for implementation of the regulation (Feb-Mar 2012); and</p> <p>(vii) Finalization of recommendations for the draft Regulation on Formulating Environmental Management Plan, incorporating stakeholders' comments and recommendations (Feb-Mar 2012).</p>	
<p><b>Prepared by:</b></p>	
<p>Laurence Pochard, Principal Project Management Specialist, MNRM <i>(Name, Signature and Date)</i></p>	
<p><b>Endorsed by Division Director/Country Director:</b></p>	
<p>Robert Schoellhammer, Country Director, MNRM <i>(Name, Signature and Date)</i></p>	
<p><b>Approved by Director General:</b></p>	
<p>Klaus Gerhauesser, EARD <i>(Name, Signature and Date)</i></p>	

**TA 7566-REG: Strengthening and Use of Country Safeguards Systems**  
 Subproject - MON: Improving Legal and Regulatory Framework for  
 Environmental Impact Assessment  
**ELIGIBILITY CRITERIA CHECKLIST**

Eligibility Criteria	State how the proposed subproject meets the TA's subproject eligibility criteria	RSES Comments
1.) Intervention is in one or more of the TA's priority areas (please mark one or more of the following criteria): <hr/> <input checked="" type="checkbox"/> legal and regulatory framework, rules, and/or procedures on environmental assessment and management, <sup>3</sup> involuntary resettlement, and Indigenous Peoples safeguards <hr/> <input type="checkbox"/> institutional strengthening and capacity development of relevant government institutions or agencies, CSOs, and/or other stakeholder groups to implement, enforce, and comply with national laws and regulations on environmental assessment and management, involuntary resettlement, and Indigenous Peoples; <sup>4</sup> <hr/> <input type="checkbox"/> state-owned and/or private sector companies' environmental and social management systems; <sup>5</sup> <hr/> <input type="checkbox"/> public awareness and participation in environmental and social assessment, planning, and implementation processes; <hr/> <input type="checkbox"/> targeted training programs and/or studies on environmental and social safeguards for governments including the judiciary, CSOs, media, academia, and/or other stakeholder groups; <hr/> <input type="checkbox"/> demonstration activities ("South-South initiatives", such as through twinning arrangements).	The main objective of the proposed subproject is to revise and formulate regulations on EIA implementation, monitoring and evaluation, public participation in EIA processes, and strategic environmental assessment in Mongolia to ensure concrete people's participation in EIA decision making processes and to integrate environmental considerations into policies at a strategic level.	
2.) The subproject is fully in line with and supportive of DMCs' priorities identified in their development plans and programs and with ADB's country partnership strategies.	Environmental sustainability and governance issues are included in the COBP as a country's priority theme. Activities proposed by the subproject will improve environmental governance by introducing public participation in the EIA decision making process.	
3.) The subproject balances the use of international and national consultants and emphasizes the transfer of international experience and knowledge to governments, CSOs, and staff of other domestic organizations in the DMC.	Both international and national experts will be hired as a Consultant Team. The Consultant Team will work with counterpart staff sharing international knowledge with government.	

<sup>3</sup> This may include the environmental assessment process, pollution prevention and abatement, biodiversity conservation and sustainable natural resources management, occupational and community health and safety, and physical cultural resources.

<sup>4</sup> This may include activities for improved institutional arrangement and administrative procedures, inter-agency coordination and governance, and for effective compliance monitoring and enforcement.

<sup>5</sup> This may include activities for enhanced corporate environmental and social policies, project safeguard review, and monitoring and reporting system.

Eligibility Criteria	State how the proposed subproject meets the TA's subproject eligibility criteria	RSES Comments
4.) The subprojects is complementary but does not substitute nor duplicate ADB ongoing or pipeline activities (i.e., the TA does not finance subprojects that are normally financed by project preparatory TA work or by other funds managed by ADB, including the Japan Special Fund).	The proposed subproject does not duplicate any ADB ongoing activities. The subproject will introduce new regulation such as public participation in EIA processes which will make Mongolia's EIA procedure in line with ADB environmental policy.	
5.) The proposed subproject cost does not exceed \$250,000.	The proposed subproject TA cost to be covered by CDTA 7566 will not exceed \$250,000.	
6.) Counterpart funds for the subproject (in cash and/or in kind) are expected to be committed by the DMC.	MNET's \$25,000 in-kind contribution to the subproject will cover costs for office space, room for consultation meetings and staff contribution to workshops and formulation of the regulations.	
7.) The DMC has been requested to endorse the TA and to appoint a focal point.	<p>The Government of Mongolia has previously endorsed the TA 7566 and appointed a focal point for a previous subproject.</p> <p>Letter of support has been received from MNET (see Appendix 2)</p> <p>MNET will be requested to endorse the subproject upon approval.</p>	
<p><b>Prepared By:</b></p> <p>Laurence Pochard, Principal Project Management Specialist, MNRM  <i>(Name, Signature and Date)</i> <span style="float: right;"><i>(Division, Department)</i></span></p>		
<p><b>Reviewed by RSES TA Team:</b></p> <p><i>(Name, Signature and Date)</i></p>		



MINISTRY OF NATURE,  
ENVIRONMENT AND TOURISM  
OF MONGOLIA

15160 Zasgiin gazriin II bair, Negdsen undestnii gudamj 5/2,  
Chingeltei duureg, Ulaanbaatar, MONGOLIA  
Tel: (976-51) 26-21-71, Fax: (976-11) 26-62-86,  
E-mail: monenv@mail.mn, http://www.mne.mn

Date 24 May 2011  
Ref. 6/1859

To: Mr. Shane Rosenthal  
Officer-in-Charge, Mongolia Resident Mission  
Asian Development Bank

Dear Mr. Rosenthal:

We are pleased to inform you that the revised Law on Environmental Impact Assessment (EIA) is currently under discussion in the spring session of the Parliament. Once approved, it will require revision of EIA regulations for effective implementation of the new law. In this regard, we would like to request ADB to assist in formulating two new implementation regulations on strategic environmental assessment and public participation in EIA processes and revising four existing regulations on formulation of environmental management plan and monitoring EIA implementation issues. Further, we would like to request ADB to support us in organizing stakeholder's consultation meetings and workshops to discuss implications of new regulations and to raise public awareness on the new legislation.

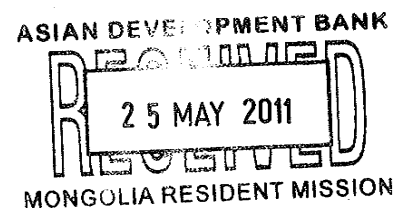
MNET's Department of Environment and Natural Resources had a series of discussions with Mongolia Resident Mission's Environment Specialist Ms. Bayarmaa Byambaa to prepare a project proposal on formulating EIA regulations and to agree on project implementation arrangements.

We appreciate our previous cooperation with ADB and look forward to working with you on improving legal and regulatory framework for EIA in Mongolia. I will be the focal point for the project implementation and we confirm our concurrence to participate in the project activities.

Thank you for your cooperation.

Sincerely,

ENKHBAT Donchinbuu  
DIRECTOR OF ENVIRONMENT AND NATURAL  
RESOURCES MANAGEMENT DEPARTMENT



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**TA 7566-REG: Strengthening and Use of Country Safeguards Systems**  
 Subproject: MON: Improving Legal and Regulatory Framework for  
 Environmental Impact Assessment  
**OUTLINE TERMS OF REFERENCE FOR THE CONSULTANTS**

### A. Introduction

A team of individual consultants will be recruited for a total of 22 person-months by the Asian Development Bank (ADB) in accordance with ADB's Guidelines on the Use of Consultants (2010, as amended from time to time). The composition of the Team is provided in Table 1 with indicative inputs assigned. The terms of reference for the Consultant Team is described in Section B.

The Consultant Team will be guided and supported by (i) Department of Environment and Natural Resources of MNET and (ii) ADB. The main outputs of the subproject will be (i) Legal Analysis and Implementation Capacity Assessment; (ii) Recommendations for Regulation on Strategic Environmental Assessment; (iii) Recommendations for Regulation on Public Participation in EIA processes; and (iv) Recommendations for Revisions to Existing EIA Regulations.

Table 1: Consultant Team Members and Inputs Assigned

<b>Consultant Team Members</b>	<b>Person-months</b>
<b>International Consultants</b>	
Environmental Policy Specialist/Team Leader	4
<b>National Consultants</b>	
Environmental Policy Specialist/National Coordinator	7
Environmental and Institutional Specialist	4
Social Development Specialist	4
Legal Specialist	3
Total	22

### B. Terms of Reference

#### International Consultants

##### 1. Environmental Policy Specialist/Team Leader (4 person-months).

###### a. Qualifications:

The Team Leader will have a postgraduate degree in environmental policy and management or related fields; at least 15 years of work experience with environmental policy including EIA, SEA and environmental legislations. Experience in drafting environmental laws and regulations would be a definite asset. International experience working on environmental management and policy issues in several countries is required.

###### b. Specific Tasks:

The Team Leader will

- (i) Manage and ensure timely implementation of the subproject;
- (ii) Guide the consultant team, coordinate between the consultant team, the MNET, and ADB and liaise with relevant stakeholders;
- (iii) Prepare a detailed work plan and schedule of activities including the budget for activities;
- (iv) Lead the review of the new EIA Law, and current laws and regulations on environmental conservation and EIA;
- (v) Lead the review of the results of previous donor assistance (e.g. UNDP, WB, and Netherlands) and NGO studies on strategic environmental assessment;
- (vi) Lead the review of the results of previous donor assistance (e.g. UNDP, WB, and Netherlands) and NGO studies on public participation in EIA processes;
- (vii) Conduct a study of international practice on SEA;

- (viii) Oversee the study of international practice public participation in EIA processes;
- (ix) Formulate draft and final recommendations for the Regulation on SEA;
- (x) Oversee the preparation of recommendations for revision of two existing regulations and formulation of new regulations on SEA, public participation in EIA processes and making a deposit for environmental restoration;
- (xi) Oversee the comparative analyses of proposed draft regulations with international environmental principles and practices;
- (xii) Oversee assessment of capacity development needs for implementation of the new and revised regulations;
- (xiii) Advise the National Coordinator on identifying key stakeholders and conduct a stakeholder analysis on relevant issues;
- (xiv) Lead the multi-stakeholders consultations and workshops to discuss the issues and implications of the new and revised regulations on EIA;
- (xv) Take the lead responsibility for preparing, finalizing and timely delivery of the reports on behalf of the Consultant Team, as stipulated in Section C.

## **National Consultants**

### **2. Environmental Policy Specialist/National Coordinator (7.0 person-months).**

#### **a. Qualifications.**

The specialist will have a postgraduate degree in environmental policy and management, development studies or related fields, and at least 15 years of experience in the field of environmental management, public awareness and consultation in environment policy with stakeholder groups. Strong capacity to communicate and working experience with government, NGOs and civil society is required. The National Coordinator will be responsible for working relationship between the Consultant Team, ADB and MNET. Knowledge of environmental standards, policy and regulatory framework for environmental management in Mongolia and good command of English is required.

#### **b. Specific Tasks**

The National Coordinator will

- (i) Assist the Team Leader in managing and ensuring timely implementation of the subproject;
- (ii) Liaise between the consultant team, MNET, ADB and relevant stakeholders;
- (iii) Assist the Team Leader to prepare a detailed work plan and schedule of activities including the budget for activities;
- (iv) Review the new EIA Law, and current laws and regulations on environmental conservation and EIA;
- (v) Review previous studies and research on SEA, public participation in EIA processes in the context of Mongolia conducted by NGOs and projects working in the field of environment;
- (vi) Assist the Team Leader to conduct a study of international practice on SEA;
- (vii) Assist the Social Development Specialist to conduct the a study international practice in public participation in EIA processes;
- (viii) Conduct a comparative analysis of proposed draft regulations with international environmental principles and practices;
- (ix) Identify key stakeholders and conduct a stakeholder analysis on relevant issues;
- (x) Organize multi-stakeholders consultations and workshops to discuss the issues and implications of the new and revised regulations on EIA;
- (xi) Formulate draft and final recommendations for revision of the Regulation on EIA procedures and Regulation on Formulating Environmental Management Plan;
- (xii) Conduct assessment of capacity development needs for implementation of new and revised regulations;
- (xiii) Contribute inputs for the recommendations for new regulations on SEA, public participation in EIA processes and making a deposit for environmental restoration;
- (xiv) Organize workshops and seminars for relevant stakeholders such as local environmental departments, environmental inspectors and licensed EIA companies on the new EIA law and regulations and its implementation issues;
- (xv) Manage procurement processes in accordance with *ADB's Procurement Guidelines*; and
- (xvi) Assist the Team Leader to prepare the reports as stipulated in Section C.

### **3. Environmental and Institutional Specialist (4.0 person-months).**

#### **a. Qualifications**

The specialist will have a postgraduate degree in environmental policy and management, development studies or related fields, and at least 10 years of experience in environmental management, planning, implementation and assessment. Knowledge of environmental standards, policy and regulatory framework for environmental management in Mongolia and working experience with government, NGOs and civil society and good command of English are required.

#### **b. Specific tasks**

The specialist will

- (i) Assist the Team Leader to review the new EIA Law, and current laws and regulations on environmental conservation and EIA;
- (ii) Assist the Team Leader to review previous studies and research on SEA, public participation in EIA processes in the context of Mongolia conducted by NGOs and projects working in the field of environment;
- (iii) Assist the Team Leader to conduct a study of international practice on SEA and public participation in EIA processes;
- (iv) Assist the Team Leader to conduct a comparative analysis of proposed draft regulations with international environmental principles and practices;
- (v) Formulate draft and final regulations for the Regulation on Making a Deposit for Environmental Restoration;
- (vi) Conduct assessment of capacity development needs for implementation of new and revised regulations;
- (vii) Contribute inputs to recommendations for the revision of other existing regulations and formulation of the Regulation on Public participation in EIA processes and SEA;
- (viii) Participate and give presentations in multi-stakeholders consultations and workshops to discuss the issues and implications of the new and revised regulations on EIA; and
- (ix) Assist the Team Leader to prepare the reports as stipulated in Section C.

### **4. Social Development Specialist (4 person-months).**

#### **a. Qualifications**

The specialist will have a postgraduate degree in sociology, development studies, human geography or related fields; and at least 10 years of experience in social assessment, social and community development and public participation. Experience working with government, NGOs and international agencies and good command of English are required.

#### **b. Specific tasks:**

The specialist will:

- (i) Assist the Team Leader with review of the new EIA Law, current laws and regulations on environmental conservation and EIA focusing on social assessment and public participation in EIA;
- (ii) Conduct a study of international practice on public participation in EIA processes;
- (iii) Assist the Team Leader conduct a comparative analysis of proposed regulations on public participation in EIA processes with international environmental principles and practices;
- (iv) Formulate draft and final recommendations for the Regulation on Public Participation in EIA Processes;
- (v) Contribute inputs to the recommendation for revision of two existing regulations and formulation of the Regulation on SEA and Making a deposit for environmental restoration focusing on approaches to involve affected people, social impacts of new legislation, and implications for affected people;
- (vi) Conduct assessment of capacity development needs for implementation of new and revised regulations;
- (vii) Participate and give presentations in multi-stakeholders consultations and workshops on issues and implications of the regulations on public participation in EIA processes; and
- (viii) Contribute to the reports stipulated in Section C by providing inputs on the public participation process.

## **5. Legal Specialist (3 person-months).**

### **a. Qualifications**

The specialist will have a postgraduate degree in law; and at least 10 years of working experience in the area of legal practice and formulation of laws and regulations. Extensive knowledge of environmental conservation enforcement issues, including legal and policy framework is desirable. Good command of English is required.

### **b. Specific Tasks**

The specialist will:

- (i) Review the new EIA Law, and current laws and regulations on environmental conservation and EIA;
- (ii) Assist the Team Leader to conduct a comparative analysis of proposed draft regulations with international environmental principles and practices;
- (iii) Contribute inputs to the recommendation for revision of two existing and formulation of three new regulations on SEA, public participation in EIA processes and making a deposit for environmental restoration;
- (iv) Identify legal and regulatory constraints to implement the proposed regulations and provide legal advice to the Working Group members on legal drafting
- (v) Lead the drafting of final recommendations on the regulations to ensure consistency with legal language and law;
- (vi) Participate and give presentations in stakeholders consultations and workshops on issues and implications of the new and revised regulations on EIA; and
- (vii) Contribute to the reports stipulated in Section C by providing inputs for legal analysis.

### **C. Reporting and Delivery Schedule**

1. The following reports and deliverables will be prepared by the Consultant Team and submitted to ADB:
  - (i) A detailed work plan by end of August 2011;
  - (ii) An inception report including review of current legislation, previous research on SEA and public participation in EIA processes, and comparative analysis by middle of October 2011;
  - (iii) An interim report including the new draft regulations by end of January 2012;
  - (iv) A final report by middle of June 2012.
2. All the reports will need to be prepared in a format and style that meet ADB quality standards. All draft and final reports will be submitted in both English and Mongolian languages simultaneously.