

MONGOLIA: SUSTAINABLE LIVELIHOOD PROJECT

RESETTLEMENT POLICY FRAMEWORK

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Introduction

This report sets out the **Policy Framework for Compensation, Resettlement and Rehabilitation of Project Affected Persons** for the **Sustainable Livelihood Project** (the Project). The Policy Framework provides the principles and procedures to be followed to compensate people who may be negatively affected by the Project so as to ensure that they will be assisted to improve, or at least restore their living standards, income and/or production capacity to pre-project levels. While no resettlement or land acquisition is anticipated, the Project has developed a policy framework to protect people who may be negatively impacted from the possible community demand for the construction and or rehabilitation of small-scale infrastructure sub-projects, such as, roads, bridges, buildings, structures, water supply and sanitation facilities, and other civil work. Local officials confirmed that the rural countryside of Mongolia has vast amount of land with low density population; therefore, land acquisition will be rare. At the moment, the demand for the rehabilitation of small-scale infrastructure sub-projects will only be known during project implementation. An integrated environmental and social screening process, therefore, has been prepared which will check for possible negative impacts and for the necessary actions required for such sub-projects.

Background

This is the first phase of a three phased program to support the shift in Mongolia's national anti-poverty strategy away from welfarist measures towards those that promote secure and sustainable livelihoods for all. The objective of the proposed Project is to identify and pilot-test institutional innovations that will enhance the capabilities of community groups and poor and vulnerable households and individuals to better manage risk, build up income-generating assets, and participate in the rehabilitation and maintenance of community-level infrastructure and basic services. To realize this development objective, four components will be implemented in eight selected aimags (provinces). These are: a) Pastoral Risk Management; b) Rural Micro-Finance Services; c) Local Initiative Fund; and d) Project Management.

Legal Framework

The national legal framework governing the implementation of this Policy Framework is based on the *Constitution of Mongolia* and the *Mongolian Law on Land*.

The *Constitution of Mongolia* lists 18 rights for the citizens of Mongolia under Article 16. One of the rights (sub-article 3) states the "Right to fair acquisition, possession and inheritance of moveable and immoveable property. Illegal confiscation and requisitioning of the private property of citizens shall be prohibited. If the State and its bodies appropriate private property on the basis of exclusive public need, they shall do so with due compensation and payment."

In the *Mongolian Law on Land* (November 11, 1994), it states that "...the authorized government organization shall change or take back the land with compensation by entering into a contract with citizens, economic entities, and organizations possessing land through Sum and Duureg Governors" (Article 36).

Article 37 provides further information on acquisition of land and property:

Sub-article 2: "Upon consideration of the release agreement with the land possessor, the value of immovable construction, other property, and the costs for land release estimated at the time, shall be reflected in the decision on changing or taking back with compensation the land possessed by others."

Sub-article 3: "Upon entering into the contract described in the sub-article 3 of the Article 36 of this Law, the compensation for the land possessor shall be transferred from the State central budget to the Sum and Duureg Governors."

Sub-article 4: "The Sum and Duureg Governor shall forward the compensation to citizens, economic entities, and organizations formerly possessing land within 60 days after entering into the contract if not indicated otherwise in the contract described in paragraph 3 of Article 36 of this Law."

Sub-article 5: "The land possessor shall release the land within 30 days after the compensation has been paid in full if it is not otherwise indicated in the contract described in paragraph 3 of Article 36 of this Law."

Supporting material for the resettlement policy framework also comes from the *World Bank Operational Policy OP 4.12 on Involuntary Resettlement* (September 2001) which includes the principles listed below.

Principles

The general principles for the Resettlement Policy Framework can be summarized as follows:

1. Land acquisition, other negative impacts and involuntary resettlement are to be minimized as much as possible.
2. The resettlement and rehabilitation program should improve, or at least maintain, the affected person's pre-project living standards and should warrant their participation in project benefits.
3. The compensations to be provide are:
 - a) Compensation at replacement cost for houses and other affected structures without deduction for depreciation or salvage materials for houses and other structures
 - b) Compensation in terms of land for land of equal productive capacity acceptable to the affected person for agricultural land (where land is not available, compensation is to be provided in cash at replacement cost)
 - c) Replacement of premise/residential land of equal size acceptable to the affected person
 - d) Transportation allowance and assistance with the move.
4. Plans for acquisition of land and other assets and provision of rehabilitation measures will be carried out in consultation with the project affected persons, to ensure minimal disturbance.

Entitlement Policy

Specifically, project affected people (PAP) will be entitled to the following types of compensation and rehabilitation measures:

1. PAPs losing agricultural land:
 - a) The general mechanism for compensation of lost agricultural land will be through provision of land for land arrangements of equal productive capacity. satisfactory to the PAP.

However, if the PAP so wishes and the portion of the land to be lost represents 20% or less of the total area of the landholding, cash compensation, at full replacement cost, may be provided to the PAP.

- b) PAPs will be compensated for the loss of standing crops and fruit or industrial trees at market price.
- c) PAPs whose land is temporarily taken by the works under the work contract will be compensated for their loss of income, standing crops and for the cost of soil restoration and damaged infrastructure.

2. PAPs losing residential land and structures:

- a) The mechanism for compensating loss of residential land and structures will be: (i) the provision of replacement residential land (house site and garden) of equivalent size, satisfactory to the PAP; and (ii) cash compensation reflecting full replacement cost of the structures without depreciation.
- b) If the impact on residential land and/or structure is minor, cash compensation at replacement cost acceptable to the PAP will be provided.
- c) If the residential land and/or structure is only partially being affected by the Project and the remaining residential land is not sufficient to rebuild the residential structure lost, then at the request of the PAP the entire residential land and structure will be acquired at full replacement cost, without depreciation.
- d) Tenants, who have leased a house for residential purposes will be provided with a cash grant of three months rental fee at the prevailing market rate in the area. and will be assisted in identifying alternative accommodation.

3. PAPs losing business

- a) The mechanism for compensating loss of business will be: (i) the provision of alternative business site of equal size and accessibility to customers, satisfactory to the PAP; (ii) cash compensation for lost business structure reflecting full replacement cost of the structures, without depreciation; and (iii) cash compensation for the loss of income during the transition period.

Lack of legal rights to the assets lost will not bar the affected persons from entitlement to compensation and rehabilitation measures. PAPs will also be exempted from all administrative, transfer and legal fees.

Full Resettlement Plan

In cases where the negative impacts are significant or where more than 200 people are affected by a sub-project under the Project, a full Resettlement Plan for each such sub-project will be prepared by the Aimag project office in accordance with the provisions of this Policy Framework. The full Resettlement Plan will be furnished to the World Bank for its concurrence and clearance.

Each full Resettlement Plan will include: (a) a description of the sub-project and potential impacts; (b) objectives of the resettlement plan; (c) baseline and socioeconomic surveys; (d) detailed compensation and rehabilitation information; (e) institutional arrangements for implementation; (f) community

participation plan; (g) grievance procedures; (h) arrangements for monitoring and evaluation, (i) implementation schedule; and (j) cost estimate and funding source.

After clearance from the World Bank, the compensation, resettlement and rehabilitation activities of the Resettlement Plan will be satisfactorily completed and verified by the Central project office before funds can be disbursed for civil works under the sub-project.

Baseline Survey. The information in the baseline survey for each PAP household will include the following:

- a) number of persons;
- b) number, type, and area of the houses to be affected;
- c) number and area of all the residential plots to be affected;
- d) number, category and area of agricultural land to be affected;
- e) quantity and types of crops and trees to be affected;
- f) businesses to be affected including structures, land and other fixed assets;
- g) productive assets to be affected as a percentage of total productive assets;
- h) quantity and category of other fixed assets affected by the Project; and
- i) temporary damage to productive assets.

Socio-economic Survey. Information will include, among others, the following:

- a) age, sex, and education of each family member;
- b) main occupation and level of income of each family member;
- c) ethnicity of family and ethnic composition of community;
- d) residential history of family and of community;
- e) potential economic and social impact from sub-project on family and on the community; and
- f) impact on host community.

Partial Resettlement Plan

In case where the negative impact is minor and less than 200 people are affected, a Partial Resettlement Plan for each sub-project will be prepared by the Sum project office. These documents will be furnished to the World Bank for its concurrence and clearance in the first year and then to the Central project office for subsequent years.

Each Partial Resettlement Plan will include: (a) a baseline survey; (b) detailed compensation and other rehabilitation entitlements for each PAP; (c) description of consultation conducted; (d) institutional arrangements for implementation; (e) grievance procedures; (f) arrangements for monitoring and evaluation (g) a timetable and detailed budget and source of funding.

After clearance from WB and later the Central project office, the compensation, resettlement and rehabilitation activities of the Partial Resettlement Plan will be satisfactorily completed and verified by the Aimag project office before funds can be disbursed for civil works under the sub-project.

People's Participation

The PAPs will participate throughout the various stages of the planning and implementation of the partial or full Resettlement Plans. For these purposes and prior to the preparation of the Resettlement Plans, the PAP will be informed of the provisions of this Policy by the Community Mobilizer and at public meetings held by the representatives from the respective project offices.

Each household PAP will be fully informed of their entitlements/compensation and rehabilitation under the partial or full Resettlement Plans. After compensation, each PAP household will sign an acceptance letter.

Communities and affected persons will also be allowed to propose their own solutions and options for compensation, especially for the community driven component, Local Initiative Fund, where sub-projects are proposed, designed and implemented by community members themselves (with some technical assistance if needed for more complex projects). Such options could include pooling of resources and voluntary donations of land and or assets.

If this is the case, monitoring procedures would be established by each sum to ensure that the land and property is donated of the person's own free will, that as a result of this act the person and his household are not adversely impacted, and that they can have an established recourse to voice their complaints. Detailed inventory and survey of land acquired should be undertaken. The donation should be duly registered at the bag and sum levels.

Overall, regular monitoring will be undertaken in order to obtain feedback from PAPs to see if there has been compliance with Resettlement Policy. The World Bank staff will also monitor these activities in their regular supervision missions during the period of project implementation; consultation with PAPs and beneficiaries will be conducted.

Implementation Arrangements

Institutional Arrangements. The institutional arrangements for implementation of the resettlement plans are as follows:

- a) The Central project office has the overall responsibility for implementing the Resettlement Policy and ensuring that all compensation, resettlement and rehabilitation activities are satisfactorily completed before providing approval for disbursement of funds for sub-projects in the case of Partial Resettlement Plans or for submitting requests for no objection from the World Bank for disbursements in the case of full Resettlement Plans.
- b) It will facilitate the discussions between the aimags and the sums regarding compensation for land acquired for the sub-projects.
- c) It will monitor the aimag project office's work to ensure that the activities are carried out in a satisfactory manner.
- d) It will be responsible for organizing the necessary orientation and training for the aimag and sum officials so that they can carry out the Resettlement Plans, consultation with PAPs and implement the payment of compensation and other rehabilitation entitlement to PAPs in a timely manner.
- e) It will ensure that progress reports are submitted to the World Bank Office in Ulaan Baatar on a regular basis.
- f) The Aimag/Provincial project office is responsible for preparing full Resettlement Plans for sub-projects which require such plans. It will ensure that the compensation in land or in cash is available at the aimag and it will implement the Resettlement Plans in a timely manner.
- g) It will guide the Sum project office and monitor its work in resettlement to ensure that the activities are carried out in a satisfactory manner.

h) The Sum/District project office is responsible for preparing partial Resettlement Plans for sub-projects which require such plans. It will ensure that the compensation in land or in cash is available at the sum and it will implement the partial Resettlement Plans in a timely manner.

Implementation Schedule. A detailed implementation schedule of the various activities to be undertaken will be included in each resettlement plan.

Payment of compensation and provision of other rehabilitation entitlements (in cash or in-kind), and relocation if that be the case, will be completed at least one month prior to the scheduled start-up date of works in the respective work site.

Complaints and Grievances. Complaints and grievances related to any aspect of the resettlement plans including the determined area and price of the lost assets, will be patterned after the settlement of land disputes described in Article 56 of the *Mongolian Law on Land*. The process will be as follows:

- PAPs will present their complaints and grievances, first to the sum and then to the aimag project office; if PAPs are not satisfied with the decision, they can present their case to the central project office.
- If the project offices are not able to satisfy the PAPs, they can take their cases to court.

Supervision, Monitoring and Evaluation. Implementation of resettlement plans will be regularly supervised and monitored by the Central project office. The findings will be recorded in biannual reports to be furnished to World Bank.

Budget and Source of Funding

Each partial and full resettlement plan will include a detailed budget for compensation and other rehabilitation entitlements. It will also include information on how the funds will flow as well as the compensation schedule. It will clearly state where the sources of land and fund will come from. It was agreed during consultations with sums and aimags that each sum be responsible for providing compensation ,if required, to people negatively affected by sub-projects within its jurisdiction.