

**Mining Sector Institutional Strengthening
Technical Assistance Project**

**DRAFT REMEDIAL RESETTLEMENT
ACTION PLAN**

*Resettlement Remedial Action Plan and
Resettlement Policy Framework*

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EXECUTIVE SUMMARY

This is a draft Remedial Resettlement Action Plan (RRAP) for East Tsankhi Coalfield (ETC) operated by Erdenes Tavan Tolgoi (ETT), the state owned joint venture company in Mongolia.

ETC is located in the Ulaan nuur valley in the territory of Tsogttsetsii *soum* of Umnugobi province (*aimag*), the southern Gobi region of Mongolia.

In Mongolia there is no dedicated and comprehensive law that regulates issues of land acquisition and resettlement that leads to significant gaps compared with the international best practices.

Resettlement is a comparatively new concept in Mongolia, and ETT is just beginning to address resettlement with very weak capacity.

In the past ETT has focused mostly on the extraction and transportation of coal and ignoring key requirements for adequate resettlement such as cut-off date.

The field study carried out in August, 2014 to estimate key baseline socio-economic indicators for the ETC affected areas.

A total of 26 households were impacted by displacement due to ETT company's Eastern Tsankhi mining operation, out of which 2 households received incomplete compensation for physical displacement, however, 17 households impacted by economic displacement have not received any compensation.

The draft RRAP has addressed identified key gaps in ETT's resettlement activities in that past and made best efforts, given the allocated short time and budget, to make a resettlement plan in compatibility with WB OP4.12 proposing compensation framework including a new methodology for estimating compensation for lost pastures.

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1. INTRODUCTION

This draft Remedial Resettlement Action Plan (RRAP) for East Tsankhi Coalfield (ETC) has been drafted in line with the Terms of Reference for this project, which means that, although the numbers of displaced people are fairly limited, especially those who have been affected by physical displacement, and fall well within the limits prescribed for an Abbreviated Resettlement Plan in para. 25 of OP 4.12, this draft goes beyond what would be required for a simple Abbreviated Resettlement Plan. The numbers of project-affected people and the nature and severity of the impacts on various sections of the population will be described in further detail in the relevant sections of the RRAP. In summary, the numbers of displaced population are:

Physically displaced households: 9

Economically displaced households: 17

2. ELEMENTS OF REMEDIAL RESETTLEMENT ACTION PLAN

2.1 East Tsankhi Project Scope

Erdenes Tavan Tolgoi (ETT) is the state owned joint venture company with the registration number - 5435528 and the state registration certificate number - 9010001097. ETT operates at Tavan Tolgoi coal mining deposit.

Tavan Tolgoi coal mining deposit covers an area of 220 square km land in the Ulaan nuur valley in the territory of Tsogttsetsii *soum* of Umnugobi province (*aimag*), the southern Gobi region of Mongolia, 540 km south of Ulaanbaatar, 90 km east of Dalanzadgad, *aimag* center, 16 km southwest of Tsogttsetsii *soum* center. It is 440 km from Sainshand station, 400 km from Khar-Airag station, the closest railway station, over 200 km from the Mongolian-Chinese border, over 150 km from the Oyu Tolgoi copper and gold mining deposit.. Tavan Tolgoi coal mining deposit is connected with Dalanzadgad in the west and with Ulaanbaatar in the north via paved road. Tsogttsetsii borders with Tsogt-Ovoo, Bayan-Ovoo, Khankhongor, Manlai and Khanbogd *soums* in the north, south, west and east respectively.

ETT company covers the mine license areas of Tavan Tolgoi-1, Tavan Tolgoi, Bor Tolgoi, Bor Teeg-1 and Shar Teeg under the mining licenses of MV-016881, MV-016882, MV-016883, MV-011943, MV-011953, MV-011954, MV-011955 and MV-011956, as depicted in the map below.

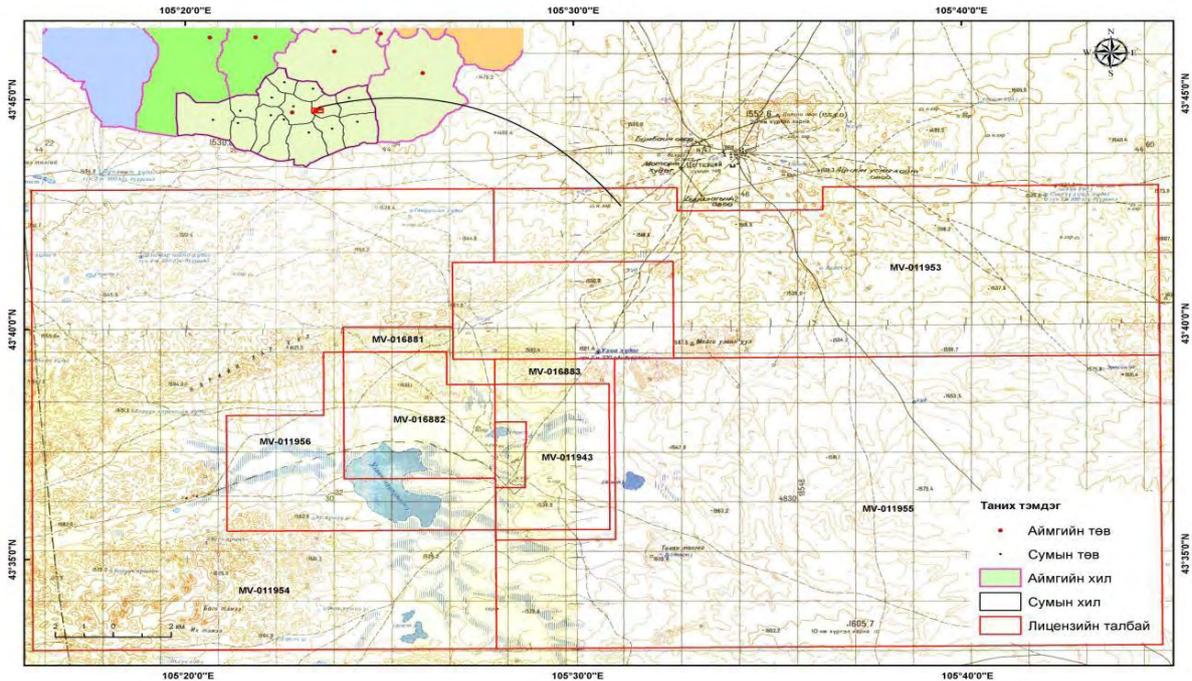


Figure 1.1 Tavan Tolgoi Deposit location /Borders of mine license areas/

Source: Detailed Environmental Impact Assessment Report for East Tsankhi open-mining project of Tavan Tolgoi coal mining deposit operated by “Erdenes Tavan Tolgoi” Joint Venture company, “Ikh Ailchin” LLC, 2011

Norwest Corporation of the USA conducted a feasibility study of the East Tsankhi part the Tavan Tolgoi mining license areas in 2010. The East Tsankhi project scope is shown in Figure 1.2. The figure shows that East Tsankhi Coalfield, covers the mining license areas subject to MV-016883 and MV-011943. Earth excavation of East Tsankhi started in August 2010. The total impact area of the East Tsankhi covers 21243 ha of the former pastureland.

Waste dumps and roads that have had resettlement impacts have also started from this period. (Figure 2.1.2).

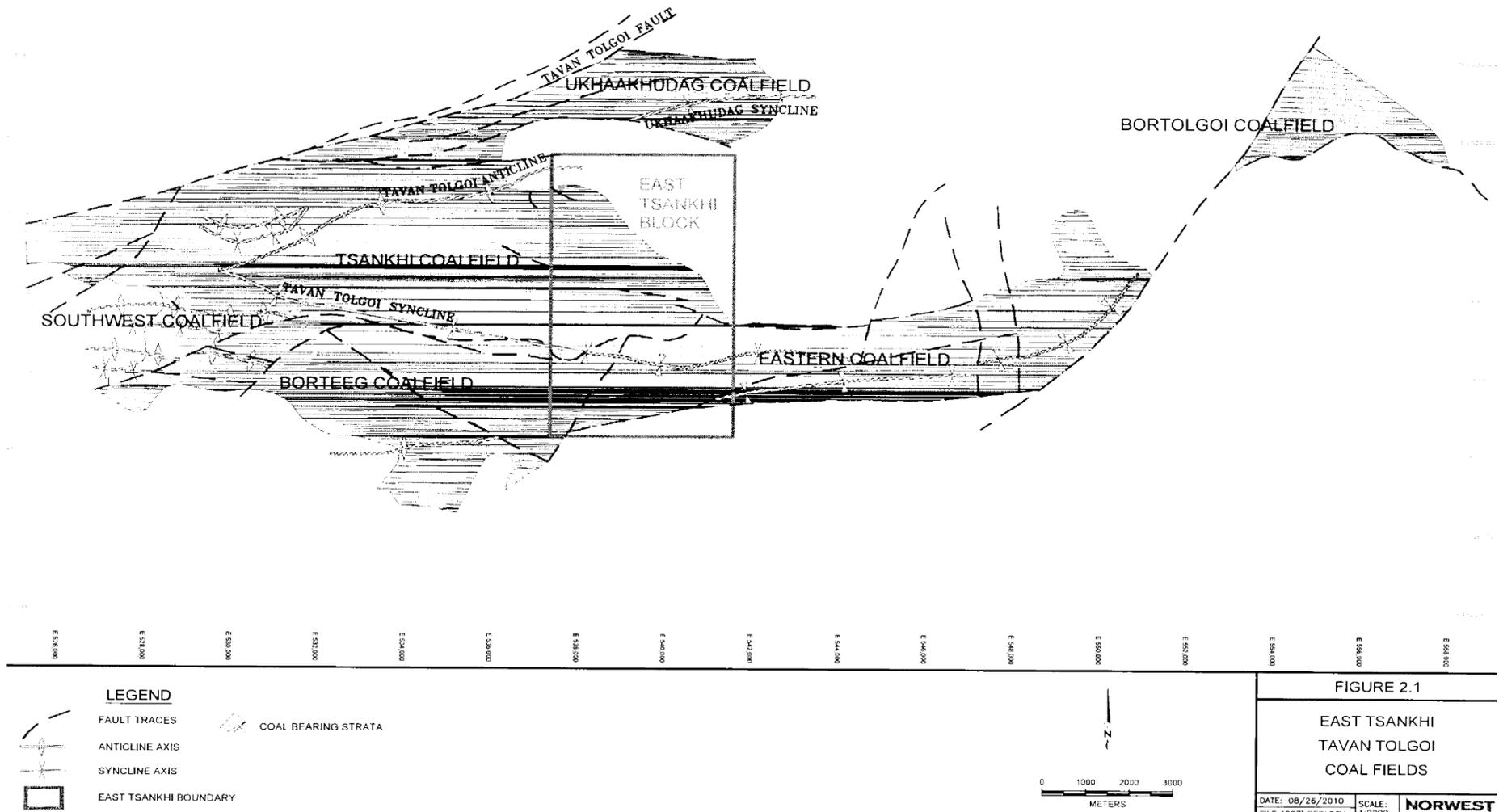


Figure 2.1.1 East Tsankhi mining licensed area

Source: Norwest Corporation, East Tsankhi Coalfield Feasibility Study, 2010

The Constitution of Mongolia

The Constitution of Mongolia (1992)¹ sets the fundamental principles for human and property rights and the acquisition of land for public needs as follows:

- The State recognizes all forms of both public and private property and shall protect the rights of the owners, Article 5.2;
- The owner's right shall be limited exclusively by due process of law, Article 5.3;
- The State shall have the right to hold land owners responsible in connection with the manner the land is used, to exchange or take it over with compensation on the grounds of special public need, or confiscate the land if it is used in a manner adverse to the health of the population, the interests of environmental protection and national security, Article 6.4;
- Right to fair acquisition, possession and inheritance of moveable and immovable 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, Article 16.3.

Law on Land

The Law on Land (2002)² regulates issues related to land possession and land use by individuals and legal entities. According to Law on Land there are three types of land tenure in Mongolia, namely land ownership, land possession and land use. These are defined in the Article 3 of Law on Land.

- "to own land" means to be in legitimate control of land with the right to dispose of this land. Only Mongolian citizens can own Land. All land, except those, which are given to Mongolian citizens, is the property of the State, i.e. public property. "Land ownership" is comparable to the "freehold" tenure in many other countries. The Law on Allocation of Land to Mongolian Citizens for Ownership deals with land ownership related issues. Further details are provided in the next part, which examines particularly with this law.
- "to possess land" means to be in legitimate control of land in accordance with purpose of its use and terms and conditions specified in respective contracts. The land possession right can be obtained only by the citizens and legal entities of Mongolia. The respective local governors make the decision for provision of land possession rights. The land possession rights are provided for 15-60 years, with possible extension of 40 years. The size of land plot for land for possession is up to 0.07 ha for household residential use. The size of land for commercial purposes depend on the type of activities and is set in the contract between the state and land possessor. In current practice, the state, as the owner of the land, provides land possession rights to the interested Mongolian entities. This right is registered in the cadastral/land information system operated by the organization in charge of land affairs,

¹ Amended twice on 24 Dec 1999 and 4 Dec 2000, respectively. The English translation of the Constitution of Mongolia used in this report is obtained from the website of the Parliament of Mongolia, www.parliament.mn accessed on 26 Aug 2014.

² The Law on Land was revised in 2002 and amended 13 times since then. The amendments were made on 2 Jan 2003, 12 Jun 2003, 22 Apr 2004, 27 Jan 2005, 1 Jul 2005, 22 Dec 2006, 9 Jul 2009, 16 Jul 2009, 17 Dec 2009, 1 Jul 2010, 17 May 2012, 26 Dec 2013, and 26 Dec 2013, respectively.

Administration of Land Affairs, Geodesy and Cartography and its local offices in the aimag that are called Department of Land Affairs, Construction and Urban Development. Land possession right is transferable and can be used as collateral as well. Land possession can be registered in the State Registration of Property Rights, which is operated by the General Authority of State Registration. In rural areas the herder families obtain land possession right for their winter, autumn and spring camps. This right extends over within the specifically defined winter, autumn and spring camps. Associated pasture land remain in the public use.

- "to use land" means to undertake a legitimate and concrete activity to make use of some of the land's characteristics in accordance with contracts made with owners and possessors of land. Land use rights can be given to Mongolian citizens, companies and organizations or foreign countries, international organizations, foreign legal entities, companies with foreign investment, foreign citizens and stateless persons for specific purpose, duration, conditions and under contract. Land use rights for the foreign citizens and stateless persons (who reside in Mongolia for more than 183 days) can be provided only for family residence purpose through auctioning by the respective local governor. The duration for such rights shall be for 5 years and is renewable for 5 years at a time. Provision of land use rights for specific period of time for foreign countries, international organizations, and foreign legal entities under leasing and concession agreement shall be decided by the Parliament of Mongolia. The boundaries and procedures of use shall be set by the Government of Mongolia. As for the companies with foreign investment, the land use rights shall be provided in accordance with the law and in this case the Government of Mongolia decides the duration of the tenure.

The land possession and land use rights are similar to leasehold tenure in other countries. In current practice, the State is the sole owner who lets land for possession and use. It is not common that the private land owners provide their land for possession and use. The possession right is transferable, whereas land use is not. Article 6.2 of the Law on Land sets the types of land, which can be used publicly (common use land) under the regulation of relevant state body, if not stated differently in the law. This include i) pastureland, water points in pastureland, salt licks, ii) public use land in the city, village and other settlement, iii) land under road and network, iv) forest area and v) water area.

The Law on Land regulates that land under possession can be exchanged or taken over, i.e. acquired, for the state special needs. Article 16 lists 12 types of land use as the land that belongs to the state special needs as follows:

- land under special protection of the state³;
- national border strip land;
- land for ensuring national defense and security;
- land for foreign diplomatic missions and consulates, and representative offices of international organizations;
- land for scientific and technological tests, experiments, and for environmental and climatic permanent observations;
- inter-aimag reserve pasture land;
- hay field land for state fodder fund;
- contracted oil field to be used for exploration according to product sharing agreement;

³ Law on Special Protected Area (1994) specifies, Article 3, that there are four categories of special protection land: i) strictly protected areas, ii) natural complex area, iii) nature reserves iv) monument area.

- free zone area;
- land for construction and use of nuclear facilities;
- land for artisanal mining; and
- land for border point zone.

The procedures for acquisition of and compensation for land under possession are specified in the “Article 42 Exchange or taking over land under possession before the expiration of the contractual period” and “Article 43 Provision of compensation when exchanging or taking over land under possession before the expiration of the contractual period”.

The law sets that *central* state administrative organization in charge of land affairs⁴ shall make a preliminary agreement with the land possessor to exchange or take over its land wholly or partially with compensation for state special needs. After that a proposal shall be sent to the Cabinet for decision to acquire the land. Once the Cabinet makes a decision to acquire the land, based on this decision, respective local Governor shall conclude a contract for land acquisition with the land possessor, provide the compensation and acquire the land. The affected land possessor shall vacate the land within 90 days after concluding the contract and hand over to the disposal of the respective Governor. The acquisition of land, which is used for residential purposes, can be implemented only between May 15 to September 15. This is due to the inconveniences associated with relocation/moving in cold period of the year.

The law states that in the decision for land acquisition the value of the buildings, facilities and other properties that cannot be separated from the land, appraised based on the rates at the time of acquisition, and costs for acquiring the land, i.e. vacating the land, shall be reflected. The compensation shall be provided to the affected entity from state budget through the respective Governor. The Governor shall provide the compensation within 60 days after concluding an agreement, if not specified differently in the agreement. The affected land possessor shall vacate the land within 30 days after receipt of the full compensation, if not specified differently in the agreement.

The law does not say that the land itself should be appraised and compensated. Moreover, the provisions of the law do not specify what entitlements the compensation consist of, who shall carry out the appraisal, what are the principles in the compensation appraisal, what can be understood under the rate at the time of acquisition (is this market value or another value/rate) and if there will be any rehabilitation measures. It is not clear how and what land can be provided in exchange to replace the land being taken back. The law has no provisions on land expropriation and leaves the whole LAR procedures to be based on negotiation and agreement. However, it specifies that disputes to arise in connection with the exchange or taking over land shall be brought to the Governor or organization that are superior to the ones against whom the claims are being made. Further, it is specified that the land related property disputes or if the decision of the higher-level authorities are still not agreeable, the case can be brought to the court for judgment. The Law on Land does not recognize any land use without proper permission, i.e. land ownership, possession and use rights, from relevant state bodies. The entities using land without permission are obliged to vacate the land upon the request by

⁴ In Mongolian legislative practice ‘*central* state administrative organization in charge of’ means respective ministry for certain sector(s) and government functions. In this case, central state administrative organization in charge of land affairs means the Ministry of Construction and Urban Development that is responsible for land policies and governmental functions and institutions related to land. After next elections, with the formation of new government the name of the ministry can be changed or the land policies and functions can fall under a different ministry, for instance Ministry of Environment.

the local Governor. If the entity did not vacate the land within the time specified by the Governor, forcible measures shall be taken to clear the land and associated costs are to be provided by the entity using the land without permission.

There is no provision in the law concerning affected entities holding land use rights, except to say that compensation is not applicable to them (article 43.6).

Law on Allocation of Land to Mongolian Citizens for Ownership

The Law on Allocation of Land to Mongolian Citizens for Ownership (2002)⁵ regulates procedures for allocating land for ownership and other relations associated with land ownership. Only Mongolian citizens can obtain land ownership rights. It can be obtained free of charge in accordance with this law or purchased. Land, which are already held under ownership rights by individuals, are freely traded and transferred on the land market.

This law was enacted as part of socio-economic reform since early 1990s and is effective starting from May 1, 2003. The law enables private ownership of land for Mongolians and provides opportunities to capitalize on land assets. Land is given to all Mongolian citizens, regardless of age and sex, one time free of charge until May 1, 2018. Land is privatized in accordance with the land management plans for family (residential) needs and commercial use. Initially, the allocation process was implemented on first come first served basis and mostly the people who already held land parcels under possession rights upgraded them into land ownership rights. Currently, new land parcels are being allocated and it is done using electronic random selection method. The size of land parcels allocated for ownership for family needs vary depending on location. In the Capital city – Ulaanbaatar and along the national level main roads connecting aimags with Ulaanbaatar, individuals are entitled to up to 0.07 hectares, in the aimag centers up to 0.35 hectares, and in soum centers and villages up to 0.5 hectares land parcels, respectively. The size of land parcels for commercial use depends on the type of activities (agricultural, industrial etc.) and decided based on the size of existing land parcel under possession, if applicable, scope and nature of the business. The land ownership right for commercial use is obtained by purchasing the land directly from the state or through auctioning. As of June 2014, total of 382,802 Mongolians have obtained private land ownership, which means that about 13%⁶ of all people have used their entitlement to free plot of land so far. Cadastral information on parcels under land ownership are registered in the cadastral/land information system operated by the Administration of Land Affairs, Geodesy and Cartography and its local offices in the aimag, Department of Land Affairs, Construction and Urban Development. The land ownership rights are registered in the State Registration of Property Rights in accordance with the Law on Registration of Property Ownership Rights and other related rights.

“Article 32 Exchange or taking over land owned by citizens based on state special needs with compensation” and “Article 37 Ensuring the land ownership right of the citizen when exchanging or taking it over based on state special needs with compensation” specify the details of acquiring land under ownership.

⁵ Law on Allocation of Land to Mongolian Citizens for Ownership was enacted in 2002 and became effective since 1 May 2003. It was amended 5 times, on 23 Jun 2005, 7 Jul 2005, 5 May 2008, 10 Feb 2011 and 18 May 2012, respectively.

⁶ Information was obtained from the website of the Administration of Land Affairs, Geodesy and Cartography, government agency under the MCUD. <http://www.gazar.gov.mn/pages/417> was accessed on Aug 28, 2014.

The law defines that land under ownership can be exchanged or taken over for *three* types of state special needs, namely: i) land for ensuring national defense and security; ii) land for scientific and technological tests, experiments, and for environmental and climatic permanent observations; and iii) land for national scale roads, lines and network, and other constructions and facilities⁷. The Cabinet shall make the decision for land acquisition and it shall state clearly the purpose for acquisition and justification that the land taking is unavoidable. Before this decision is made, the state administrative organization in charge of land affairs⁸ shall enter into preliminary agreement on land acquisition with the land owner not less than one year prior to the decision. The compensation is provided from the state budget. The land owner and state administrative organization in charge of land affairs shall have preliminarily agreed on the following:

- the land value;
- the value of immovable property on the land;
- the amount of investment made by the owner on the land and the amount of loss to incur to the land owner due to land acquisition;
- size of the land to be acquired;
- location, size, characteristics and quality of the land to be allocated in replacement of the land being acquired;
- conditions and timing for land acquisition;
- rights and duties of the parties in connection with the land acquisition;
- amount of compensation, procedures and timing for its payment.

Further the law provides that land acquisition should take place after certain measures were taken. This include measures such that the replacement land should be not worse than the previously owned land by its characteristics and quality, the value of land and immoveable property shall be paid, compensation shall include the investments made by the owner to the land, the loss to incur to the land owner due to land acquisition shall be paid fully according Civil Code and related legislation. Also, the law specifies that affected entity shall be notified in writing about the land acquisition not less than one year prior to making the decision for land acquisition. The actual land acquisition can take place after one year has passed since the affected entity was notified about the land acquisition and the measures specified in the second sentence of this paragraph were taken. Compensations for immovable property built or costs of other improvements that significantly increased the land value, after receiving the written notice, shall not be paid. If the affected entity and state organizations cannot reach an agreement, the dispute shall be settled by court.

Compared to the Law on Land, the Law on Allocation of Land to Mongolian Citizens for Ownership specifies more in detail the procedures for land acquisition and the subjects that need to be agreed with the affected entities. This includes the value of the land and immoveable properties, replacement land, loss to incur, compensation and its provision and

⁷ The Law on Land specifies 12 types of land for state special needs (Article 16). The first two state special needs land specified here are i) land for ensuring national defense and security and ii) land for scientific and technological tests, experiments, and for environmental and climatic permanent observations. These two are specified in the Law on Land. However, the third state special need specified here, i.e. land for national scale roads, lines and network, and others constructions and facilities, is not defined in the Law on Land. This conflicts with the Law on Land.

⁸ State administrative organization in charge of land affairs means a government agency under a ministry (which is referred to in the laws as *central* state administrative organization compared to state administrative organization). In current Governmental organizational setup, this agency is called Administration of Land Affairs, Geodesy and Cartography.

timing etc. However, the law does not address social safeguard issues, the principles for land and property appraisal, the completeness and clarity of the processes and procedures related to LAR are still weak. As is the case for the Law on Land, exercising of the eminent domain power of the state is not legislated.

Regulation on Taking Over Land for and Releasing Land from State Special Needs

The Cabinet enacted this regulation in 2003 to complement the Law on Land on issues related to land acquisition for state special needs and releasing land from state special needs. It regulates procedures for taking over and releasing both the public land, i.e. land which are not given to citizens, business entities and organizations for possession and use, and land under possession and use as specified in 6.1 of the Law on Land. Also, this regulation is used only when the acquisition and releasing concerns state special needs defined in 16.1.5-16.1.8 of the Law on Land⁹.

This regulation contains basically the all provisions and procedures that are set in the Law on Land Allocation to Mongolian Citizens for Ownership, articles 32 and 37, which were described in the previous part. The difference is that one concerns taking over land under ownership and therefore allows compensation for land, whereas the other concerns land possession rights and does not provide compensation for the land.

The regulation *assumes* that the affected entity and the respective Governor will reach consensus on the land acquisition and conclude an agreement. Further, it regulates that if the affected entity does not vacate the land within the time period specified in the agreement, then forced eviction shall be carried out with the support of police based on the decision of the Governor who concluded an agreement with the affected entity. The grounds for such an action is set in the “article 41 vacating land when land possession right expires” and “article 59 the duties of police related to land issues”. These regulations seem to use the provisions of Law on Land that concern vacating land when the land possession right expires and vacating land if used without proper permissions from relevant state bodies for land acquisition for state special needs.

In the point 24 of this regulation, it is stated that the acquisition of land under use rights held by commercial entities with foreign investment, foreign citizens and stateless persons for state special need with compensation shall be regulated by this regulation. This seems to be in conflict with the article 43.6 of the Law on Land as this article specifies that compensation is not applicable for citizens and commercial entities holding land use rights. Related to this conflict, there are more issues that complicate or make it difficult or uncertain in that the regulation concerns about commercial entities with foreign investment, foreign citizens and stateless persons and the law specifies only citizens and commercial entities holding land use right, not mentioning “foreign”.

The regulation clarifies some of the issues that are not clearly addressed in the Law on Land in similar way as specified in the Law on Land Allocation to Mongolian Citizens. Equally to the Law on Land, this document does not provide any regulations for cases where there is no

⁹ State special need land specified in 16.1.5-16.1.8 are the following: 16.1.5 land for scientific and technological tests, experiments, and for environmental and climatic permanent observations; 16.1.6 inter-aimag reserve pasture land; 16.1.7 inter-aimag reserve pasture land; 16.1.8 contracted oil field to be used for exploration according to product sharing agreement.

consensus and agreement between the affected entity and the respective Governor and state administrative organization in charge of land affairs. Consequently, it does not regulate issues of expropriation, in case that there is no agreement.

Compensation and Valuation

Mongolian legislation on LAR do not specify the details related to valuation of the land and properties and provision of compensation.

Under existing practice, when state organizations – local land administration offices acquire land for public works such as public utilities or schools etc. the land was valued and compensated following the Cabinet Resolution 103 from 2003. This resolution provides the methodologies to determine the value of land to be privatized to Mongolian citizens. According to this resolution 1m² land value in the ger areas of Ulaanbaatar without access to public utilities is set to 13,200 Mongolian tugrugs (MNT), 1m² land in areas with access to public utilities is set to 44,000 MNT. In the cases of road broadening and public utilities building in ger areas 13,200 MNT is provided for m² land. Also, there are cases of acquisition of land plots for building public schools and kindergartens, where the land plots are in areas of access to public utilities. In these cases, 44,000 MNT per m² land is provided for compensation. There is another case in which 100,000 MNT per m² land is provided for compensation. This amount is kind of amount that was agreed with the affected entities in prime locations for urban redevelopment. This is used in the areas very close to the city center and where there is a need to build public utilities or facilities such as heating power plants.

The immovable properties on the land are appraised at market value and compensated. The appraisal is carried out by officials-appraisers from the Property Relations Department. The depreciation and value of the remaining materials are not deducted from the compensation but the compensation do not include the costs for taking down the immovable property. In some cases, the affected entities do not agree with this compensation appraisal and hire certified appraisers. Then based on the value appraised by the certified appraisers they negotiate with the officials in charge of the LAR. As results of the negotiation, the compensation can be 20-30 per cent more or, in some cases, even the average of the value offered by the officials and value appraised by certified appraiser is set as the compensation value. In this latter case, sometimes the compensation increases substantially. These appraisals are carried out following the Law on Property Appraisal and International Valuation Standards. 50-60 percent of the compensation is paid upon signing of the contract for land acquisition and the remaining part is provided when the land is vacated.

In this process, the negotiation skills of the affected entities as well as their financial possibilities to hire a certified appraiser play a role. This shows that current legislation and practice is faulty, as they do not provide equal opportunities and fair treatment and not based on rule of law and open and transparent procedures and standards, but relies on the negotiation skills and other personal characteristics.

Land legislation and LAR related to East Tsankhi Coalfield project

The LAR related provisions of Mongolian land legislation regulate only the issues of exchange and taking over land, i.e. land acquisition, for state special need. Mining development land used by Eastern Tsankhi Coalfield (ETC) project of Erdenes Tavan Tolgoi company (ETT) falls under none of the state special needs land. Therefore, the use of

regulations for LAR of the Mongolian land related legislation is not applicable for ETC project. In Mongolian law practice, when there are no legal regulations on specific issues, in this case LAR for mining development, it might be possible to use legislation that regulates similar issues. Thus Mongolian land legislation could be utilized for regulation of LAR for ETC project, however, it is not recommended. The LAR procedures are rather incomplete, imprecise and do not properly address the protection of the rights of affected entities and properties, and falls short of provisions of social safeguards to the affected entities.

Civil Code

The Civil Code (2002)¹⁰ is applicable to LAR where the affected entities and project operator, such as ETT, engage in civil legal relationship as equal and autonomous legal persons. Therefore, resettlement activities related to the implementation of ETC project shall be carried out through negotiated land acquisition and resettlement. The affected entities and ETT shall enter into contractual relations, which will specify the entitlements, compensation and allowances, rehabilitation and social safeguard measures as required by the Mongolian Civil Code and other legislation, and the World Bank.

Chapter 10 of the Civil Code defines property and assets, including land and other immovable property. Chapter 11 specifies possession of properties and Chapter 12 specifies for property types, ownership by individuals and other legal persons, rights of owners etc. This chapter defines the land ownership tenure and refers to the subsequently enacted Law on Land, Law on Allocation of Land to Mongolian Citizens for Ownership with regard to relations concerning land ownership, possession and use. Chapter 15 is dedicated to the contracts between legal entities. The agreements on transfer of land and properties would need to be concluded in accordance with the requirements in this Chapter.

Customary tenure

In the ETC project, there are herder households, who will be affected by this mining development. As described previously, herders hold official land possession rights to their winter/spring camps, but the associated pastureland is state owned, i.e. publicly used. Although, there is no official land ownership, land possession or land use rights to pastureland, the herder communities recognize customary tenure to pastureland. The herders were using certain pastures for generations and have feeling that the right to use this “certain” pastures belong to them. This is also well known to the local authorities, soum administration and bag governors.

The customary land tenure issues and the access to pastureland as source of livelihood of the potential affected entities need to be taken into consideration.

2.2.2 International Standards

The land acquisition and resettlement activities to be carried out within the ETC project, shall comply with the Mongolian legislation and safeguard requirements of the World Bank

¹⁰ The Civil Code was amended 9 times since it was approved in 2002. The amendments were made on 7 Jul 2005, 9 Jul 2009, 9 Jul 2009, 23 Apr 2010, 6 Oct 2011, 6 Oct 2011, 15 Dec 2011, 10 Jan 2013, and 15 May 2014, respectively.

Operational Policy 4.12 – Involuntary Resettlement (WB OP4.12). In this regard, the requirements of OP4.12 are summarized as follows:

- Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs;
- Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits;
- Affected persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them to pre-displacement levels or to levels prevailing prior to the beginning of project implementation;
- Affected persons should be fully informed and meaningfully consulted on resettlement and compensation options;
- Affected persons should have opportunities to participate in planning and implementing resettlement programs;
- Affected persons should be provided prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project;
- Existing social and cultural institutions of resettlers and their hosts should be supported and used to the greatest extent possible, and resettlers should be integrated economically and socially into host communities;
- The absence of a formal legal title to land by some affected groups should not prevent them from receiving full compensation; particular attention should be paid to households headed by women and other vulnerable groups, such as ethnic minorities, and appropriate assistance provided to help them improve their status;
- The full costs of resettlement and compensation should be included in the project costs and benefits.

2.2.3 Gap Analysis

A comparison of key provisions of Mongolian laws and WB OP4.12 is provided in Table 1 below. It lists the basic LAR issues and outlines relevant provisions of Mongolian laws and WB OP4.12, and identifies gaps and suggests possible actions.

Table 2.2.1 Comparison of LAR provisions of Mongolian laws with WB OP4.12

LAR Issues	Provisions of Mongolian Law	WB OP4.12 Requirements	Gaps and Suggested Actions
Involuntary LAR	<p>Constitution of Mongolia states that "...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" Article 16.3. Although this article justifies possible land involuntary land acquisition and resettlement, up to date any law was enacted to exercise the power of eminent domain and there is no definition of what should be understood under the "(exclusive) public need".</p> <p>Law on Land and Law on Land Allocation to Mongolian Citizens for Ownership allows acquisition of land under possession and ownership for state special needs by state bodies. However, no power of eminent domain is given. The acquisition must take place based on agreement with the affected entities.</p> <p>This law does not apply to ETC project.</p>	<p>Involuntary land acquisition and resettlement is recognized, but subject to requirements aiming at avoiding, where feasible, and minimizing LAR and replacement of lost assets and rehabilitation of livelihoods. Affected persons livelihood and living standards to be at least at the preproject level.</p> <p>Eminent domain cannot be exercised by ETT for ETC project.</p>	
Negotiated settlements	<p>Law on Land (article 42, 43) and Law on Land Allocation to Mongolian Citizens for Ownership (article 32, 37) regulates acquisition of land (exchange or taking over land) for state special needs. It is required that the acquisition is carried out based on agreement with the affected entity.</p> <p>In practice LAR is carried out as "quasi-involuntary acquisition". In most cases, government officials negotiate and conclude agreement. However, in cases where there are difficulties in reaching agreement, the authorities through some administrative measures somehow make the affected entities conclude an agreement.</p> <p>Civil Code of Mongolia provides legal basis for property transaction agreements.</p>	<p>Negotiated settlements are encouraged, the resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the affected entities to share in project benefits.</p>	<p>No requirements that the resettlement activities are conceived and executed as sustainable development programs.</p> <p>No investment resources to enable affected entities to share project benefits.</p> <p>Affected entities need to be made aware about possible sustainable development programs and sharing of the project benefits to encourage negotiated settlements and eventually to come to a win-win situation for both the affected</p>

LAR Issues	Provisions of Mongolian Law	WB OP4.12 Requirements	Gaps and Suggested Actions
Eligibility	<p>Lawful land owners, land possessors are eligible for compensation. Land owners are entitled to compensation for both the land and immovable properties on it (article 32, Law on Land Allocation to Mongolian Citizens for Ownership). Land possessors are entitled to compensation for the immovable properties on the land, but not for the land, (article 43, Law on Land).</p> <p> Holders of lawful land use rights are not entitled to any compensation according to Law on Land (article 43.6), but Regulation on Taking Over Land for and Releasing Land from State Special Needs, point 24, states that holders of land use rights shall be compensated in the same way as the land possessors. This regulation should be formulated in accordance with the Law on Land, but it conflicts this law. In this case the law will prevail the regulation. However, it is questionable that why a lawful land user is not eligible for compensation.</p> <p>Affected entities who do not have official land tenure are not compensated.</p>	<p>Three groups of affected entities are identified:</p> <ul style="list-style-type: none"> i) those who have formal legal rights to land (land owners, possessor and users); ii) those who do not have formal legal rights, but have a claim to such land or assets; iii) those who have no recognizable legal right or claim to the land they are occupying. <p>Persons under i and ii are provided compensation for the land and asset they lose, and other assistances. Persons under iii are provided resettlement assistance in lieu of compensation for the land they occupy. They are provided compensation for loss of asset and other assistance</p>	<p>entities and ETT</p> <p>Affected entities without formal rights are not recognized and not eligible.</p> <p>Holders of land use right are not recognized as eligible for compensation.</p> <p>In the project the above two categories of affected entities to be recognized and compensated as set in WB OP4.12.</p>
Cut-off date	<p>To acquire owned land, a written notice must be served one year prior to the taking of land. This serves as “kind of” the cut-off date. Investments and improvements, including immovable structures, on the land after service of this notice are ineligible for compensation. (Law on Land Allocation to Mongolian Citizens for Ownership, Articles 37.2 and Article 37.4)</p> <p>The same applies for land under possession, but it is not set in the Law on Land. It is specified in the Point 15 and 17 of the Regulation on Taking Over Land for and Releasing Land from State Special Needs.</p> <p>In practice these provisions are not implemented and they are rather impractical.</p>	<p>An eligibility cut-off date is to be set when the project is officially noticed, the project area is delineated or the census of the affected population is taken, to prevent influx of non-eligible persons and land speculation.</p>	<p>There is “kind of” cut-off date, but the regulations related to it are impractical and does not provide meaningful regulation of the issue.</p> <p>Cut-off date as specified and used by WB OP4.12 shall be utilized to determine who will be eligible for compensation and assistances, and to discourage inflow of people ineligible for compensation and assistances</p>

LAR Issues	Provisions of Mongolian Law	WB OP4.12 Requirements	Gaps and Suggested Actions
Compensation	<p>For land possession, the improvements on land should be valued at current rate should be provided, 43.2 of Law on Land. Nothing is said about the compensation of the land, but in case of provision of replacement land, the quality and other features of the replacement land should be not worse than the one being acquired (point 14 of the Regulation on Taking Over Land for and Releasing Land from State Special Needs).</p> <p>For ownership, the improvements on land should be valued at current rate and compensated. Also the land value should be provided. It does not specify how to value the land. In case of provision of replacement land, the quality and other features of the replacement land should be not worse than the one being acquired. Moreover, the law specifies that any loss incurred due to land acquisition shall be fully compensated as per Civil Code (37.1 of Law on Land Allocation to Mongolian Citizens for Ownership).</p> <p>The laws do not specify what rate shall be applied for the compensation of improvements, i.e. if market rate or other, but it can be implied that it is market value.</p> <p>For both types of land tenure relocation expenses are to be provided as well. Nothing is said about the depreciation and residual materials.</p> <p>In practice the depreciation is not deducted and affected entities can take their residual materials. No relocation, transitional, restoration and transactions costs are provided.</p> <p>As for land value it is based on fixed rate set by the government. However, there were few exemptions, in the prime locations, where land value were close to market.</p> <p>Provision and payment of compensation is not clear.</p>	<p>Compensation for lost assets will be provided at replacement cost, usually calculated as the market value of the assets plus the transaction costs related to restoring such assets (registration and transfer taxes) and transitional and restoration costs. Depreciation of structures and assets should not be taken into account.</p> <p>Cash compensation and/or replacement of assets must be completed before displacement.</p>	<p>Compensation for costs such as relocation, transition, rehabilitation and transaction are not considered.</p> <p>The valuation principles shall be made clear. Compensation for the land shall be based on replacement value and applicable for all types of land tenure. Costs for relocation, transition, restoration and transaction should be included and provided.</p> <p>Compensation shall be completed before displacement.</p>
Resettlement in project design	No requirements.	Alternatives should be provided in project design to avoid or at least minimize resettlement	Resettlement issues should be the integral part of the project documents.

LAR Issues	Provisions of Mongolian Law	WB OP4.12 Requirements	Gaps and Suggested Actions
Resettlement action plan	No requirements.	Resettlement action plan with time bound actions and a budget based on an assessment of social impacts. The objective of a resettlement plan is to ensure that livelihoods and standards of living of affected entities are improved, or at least restored to pre-project levels and that the standards of living of the displaced poor and other vulnerable groups are improved, not merely restored, by providing adequate housing, security of tenure and steady income and livelihood sources.	Prepare Resettlement Plan as per the requirements of the WB OP4.12
Income and Livelihood Restoration	<p>Article 37.1.5 of the Law on Land Allocation to Mongolian Citizens for Ownership entitles owners to <i>loss due to replacement or taking back of the land based on the special needs of the state to the full extent according to Civil Code and legislation.</i></p> <p>This provision is not practiced, but it can be interpreted favorably to include entitlements to income and livelihood restoration.</p> <p>The Land Law does not address loss of income or livelihood.</p>	<p>If land acquisition causes loss of income or livelihood, compensation for loss of assets or access to assets, replacement property of equal or greater value, or cash compensation at full replacement cost shall be provided. In addition the following are provided depending on circumstances:</p> <ul style="list-style-type: none"> - compensation for the cost of re-establishing commercial activities elsewhere - compensation for lost net income during the period of transition - compensation for the costs of the transfer and reinstallation of the plant, machinery or other equipment - transitional support based on a reasonable estimate of the time required to restore their income-earning capacity, production levels, and standards of living - additional targeted assistance (credit facilities, training, or job opportunities) 	The affected entities should be consulted, offered choices and provided with technically and economically feasible resettlement alternatives that will support their income and livelihood restoration.

LAR Issues	Provisions of Mongolian Law	WB OP4.12 Requirements	Gaps and Suggested Actions
		and opportunities to affected entities whose livelihoods or income levels are adversely affected (owners of businesses and employees are eligible)	
Vulnerable groups	No provision for vulnerable persons.	Specifically take into account any individuals or groups that may be disadvantaged or vulnerable. Vulnerable groups include people who, by virtue of gender, ethnicity, age, physical or mental disability, economic disadvantage or social status may be more adversely affected by displacement than others and who may be limited in their ability to claim or take advantage of resettlement assistance and related development benefits.	Special measures in terms of consultation and development assistance shall be devised to allow such groups to participate in resettlement planning meaningfully and to benefit from development opportunities.
Information disclosure and public consultation	No provision on information disclosure and public consultation. In practice, negotiation takes place on the land acquisition contract.	Project affected entities are to be fully informed and closely consulted on compensation and resettlement options. Resettlement planning documentation is disclosed and consulted upon.	ETT should summarize the information contained in the RAP and/or the RPF for public disclosure to ensure that affected displaced persons understand the compensation procedures and know what to expect at the various stages of the project (for example, when an offer will be made to them, how long they will have to respond, grievance procedures). During the development of the RAP, affected entities (including host communities) should be informed and consulted on the development of compensation packages, eligibility requirements, resettlement

LAR Issues	Provisions of Mongolian Law	WB OP4.12 Requirements	Gaps and Suggested Actions
			assistance, suitability of proposed resettlement sites and the proposed timing. Special provisions should be made for consultations with vulnerable groups. Consultations should continue during the implementation, monitoring and evaluation of compensation payment and resettlement.
Grievance procedure	<p>Grievance procedures as stipulated in WB OP4.12 are not addressed in the laws.</p> <p>The Land Law refers disputes over land to the local governors and eventually the court (Article 60). The Law on Land Allocation to Mongolian Citizens for Ownership states an aggrieved person is entitled to file a complaint to the respective higher ranking government authority or official (Article 39) and eventually to the court.</p> <p>The Law on Handling Grievances of Citizens Addressed to Government Authority and Government Officials governs grievance and complaints of citizens regarding to decisions and conduct of government authority or officials. Grievances must be resolved within 30 days of making (Article 16).</p>	An adequate grievance redress mechanism for affected entities is required as early as possible.	A grievance redress mechanism and procedures should be established by ETT to address concerns of the affected entities promptly and effectively, using an understandable and transparent process that is culturally appropriate and readily accessible at no cost and without retribution.
Costs and budget	<p>43.3 of Law on Land and 32.6 of Law on Land Allocation to Mongolian Citizens for Ownership specify that the compensation payment to be provided to the land possessor or land owner, respectively, shall be paid from the state budget.</p> <p>In practice the LAR costs are not reflected in the project costs and are not born from the project budget. Often, unavailability lack of funding for resettlement activities cause delays in the project implementation.</p>	The costs and budget should be estimated, it shall provide the description of the arrangements for funding resettlement, including the preparation and review of cost estimates, the flow of funds, and contingency arrangements.	ETT should make estimates of costs to be born for implementation of RAP, develop tables showing itemized cost estimates for all resettlement activities, timetables for expenditures; sources of funds; and arrangements for timely flow of funds.
Monitoring and	Responsibility of Citizen's Representative Khurals of Aimag, capital city	Establish procedures to monitor and	The monitoring and evaluation

LAR Issues	Provisions of Mongolian Law	WB OP4.12 Requirements	Gaps and Suggested Actions
evaluation	<p>and district and soums (11.1.1, 13.1.1 of Law on Land Allocation to Mongolian Citizens for Ownership).</p> <p>Responsibility of Citizen’s Representative Khurals and Governors of Aimag, capital city and district and soums (20.1.1 of Law on Land).</p> <p>The monitoring and evaluation responsibilities of the entities specified above are more general to land related activities and no specific monitoring and evaluation provision exist in the laws.</p>	evaluate the implementation of resettlement action plans.	activities should be carried out to conduct assessment of resettlement outcomes and impacts on standards of living of the affected entities. Also, it should evaluate whether the objectives of RAP were achieved.

The analysis of the Mongolian LAR related legislation and practice and their comparison with WB OP4.12 reveal the following important policy gaps:

- Cut-off date, to determine eligibility and discourage ineligible entities to claim entitlements, is not declared;
- Income and livelihood restoration assistances and measures are not provided;
- Affected entities who do not have official land permission are not eligible for compensation and restoration entitlements;
- Compensation appraisal for affected land is based on a rate fixed by the government, but, not market values and compensation is provided only for land under ownership rights and no compensation is provided for land under possession and use rights;
- No compensation payment is made for transaction costs;
- Project internal grievance redress mechanisms do not exist to facilitate dispute resolution before going to governors and the courts;
- Public consultation and information disclosure is not practiced;
- Project specific monitoring and evaluation are not conducted.

2.3 Resettlement Institutional Analysis

Resettlement is a comparatively new concept in Mongolia, and therefore required institutions at all levels including the Government and business entities are at their early development stage and as well as the legal framework for resettlement is unfavorable as stated above in section 2.2.

Institutional readiness for resettlement planning at ETT is at the “beginner’s level”. In terms of functional allocation within ETT, External Affairs, Community and Public Relations Division is currently in charge of resettlement, and one specialist in charge of social accountability has started working on this matter. The 2014 work plan of this division reflects activities such as assisting herders with community and cooperative organizations, livestock fodder preparation, SME development, providing assistance to *soum* center street lighting and the hospital, which is desirable. However, it needs to pay greater attention to resettlement education, and targeted activities for impacted persons.

Different people at various levels have carried out the tasks related to resettlement in the past in accordance with the resolution issued by the management and/or mining work plan as secondary tasks in addition to their major job description. For instance, Ch. Enkhbayar, Mining Department Director of ETT and B. Batsaikhan, Branch Director were handling the 2011 resettlement tasks through meeting with physically displaced people and negotiating on the compensation package proposed by the company as recorded in the notes. However, these people are no longer working in these positions now. Due to such permanent change of staff, documents, information and records of previously implemented works were lost and it negatively impacted on the work synergy and continuity.

*Negotiation is more valuable when it is recent. Delayed negotiation makes everyone to slowdown. Directors often change and there are no people who know what has been discussed before, **Extraction from the interview with affected household***

Generally, ETT has focused more on the extraction and transportation of coal since its establishment and has operated without sufficient capacity to resolve resettlement issues with proper studies and an action plan. Even today, it still has insufficient capacity, causing the company's resettlement action content, coverage and quality to fall behind international standards.

Local government lacks adequate knowledge and information on resettlement and has insufficient human resource capacity to implement resettlement actions. Local government organizations and citizens who participated in previous resettlement works carried out by ETT were passive and limited their participation to simple tasks such as providing information or responding to proposals or recommendations proposed by the company. This may have been because people were not overly concerned about the company's proposed actions, or it may have been that local people lacked appropriate knowledge and skills to be able to review and respond to the company plans. It seems that the company did not take enough initiatives to engage the community people through planning in advance, so it is difficult to conclude that displaced people had sufficient opportunity to review their rights and options.

For instance, there was not any evidence that ETT set the cut-off date. As a consequence, this may negatively impact on the company's reputation by potentially increasing the number of people requesting compensation, even if they are newcomers to the area.

Civil society organizations with the mandate of focusing on the resettlement issues are also at their early development stage. The most active organization is OT Watch NGO located in UB, which currently focuses more on the Oyu Tolgoi mining project.

The Mining Strategic Planning Department plays a key role in determining resettlement coverage as the mining industry is growing rapidly, thus any future resettlement actions should be better linked with an official department in charge of resettlement issues. Nonetheless, dramatic change needs to be made in terms of meeting international standards and strengthening government capacity to this extent. What needs to be done further in institutional strengthening is discussed in section 2.9.

2.4 Socio-Economic Baseline

Baseline socio-economic indicators have been determined as an initial draft based on the field study results carried out in August, 2014 and secondary information sources.

The following sources are the major references for this baseline description:

- Field study was carried out from August 6 to 14, 2014, to determine the current socio-economic situation of Tsogttsetseii *soum* and the land use status of Erdenes Tavan Tolgoi company's mining lease area and surrounding areas within a 5 km radius. A total of 125 entities, where individuals and business organizations are running small business activities, and 28 herders and herder families were involved in the field survey.
- Detailed Environmental Impact Assessment of the Eastern Tsankhi open mining project of the Tavan Tolgoi Coal Mining Deposit, 2011.
- Environmental Impact Assessment of the Ukhuaa Khudag and Baruun Naran Mining.

- Detailed Environmental Impact Assessment for the road (paved road, railway) to Gashuun Sukhait.
- Baseline socio-economic study of Umnugobi province, 2008.
- Information retrieved from the Introduction of 2013 socio-economic study of the *aimag*, produced by the Umnugobi *aimag* statistics office, and the information provided by the *Soum* Governor's Office.

Administrative organization. The Erdenes Tavan Tolgoi mine is situated in Tsogttsetsii *soum* of Umnugovi province, where there is the lowest population density in Mongolia (0.3 per square km), having 50,000 citizens in a territory of 165,380 km². The *aimag* is divided into administrative units such as *soums* and *bags*.

Tsogttsetsii *soum* is 530 km from Ulaanbaatar and 98 km from the *aimag* center of Dalanzadgad. The *soum* area covers 724643 ha bordering with Tsogt-Ovoo, Bayan-Ovoo, Khankhongor, Manlai and Khanbogd *soums* in the north, south, east and west.

The center of Tsogttsetsii *soum* is 15 km to the northeast of the Mine. There is an earth road between the *soum* center and the Mine.

Population. At the end of 2013, Tsogttsetsii *soum* had 2128 households and the population of 6108 in its three Bags – Siirest, Bilgekh and Tsagaan-Ovoo. There is no indigenous peoples present in the affected area

There are four *bags* such as Siirest, Bilgekh, Tsagaan-Ovoo and Uguumur.

Table 2.4.1 Information of the bags

	Names of bags	Territory /ha/	Number of Households	Population	Number of herder households	Livestock number
1	Tsagaan-Ovoo	164775	915	2715	101	17589
2	Siirest	209177	464	1374	78	26007
2	Bilgekh	32707	280	884	69	23254
4	Uguumur	8307.35	511	1318	-	742

The Tavan Tolgoi coalfield and East Tsankhi Mine of the Erdenes Tavan Tolgoi company are situated in the area of the Tsagaan-Ovoo bag. There are 4 mining entities and 15 contractors that run coal transportation within that sub-district.

As of the end of 2013, some 2715 persons in 915 households resided in Tsagaan-Ovoo *bag*. There were 54 companies, 6 budgetary organizations, 101 herder households, and 17589 livestock. Vegetables and fodder crops are planted over an area of 15.0 hectares.

Table 2.4.2 Population growth of the Tsogttsetsii Soum

A	Unit of measurement	2000	2007	2013
Territory	Thousand hectares	47.6	47.6	47.6
Permanent residents, at the end of year	Number	2189	2147	6108
A number of households	Number	572	614	2128

The *Soum* population increased 2.8 times since 2000 and a number of households increased by 2.7 times since 2000 due to booming mining development in the area.

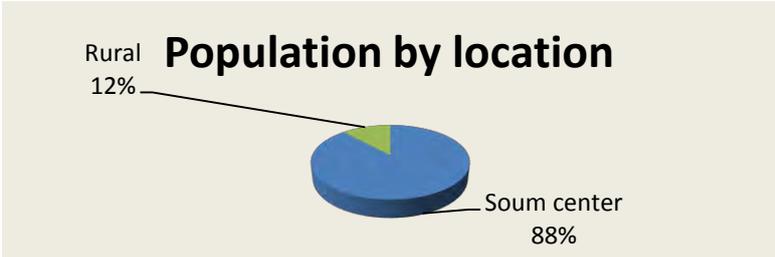


Figure 2.4.1 *Soum* population by location

Eighty eight (88) percent of the *Soum* population lives in the *soum* center and they work for the mining companies.

In recent years, the number of herder households is declining year by year. There were 368 herder households in 2007 and this number declined to 232 in 2013, declining by 36.9 percent.

Table 2.4.3 Change in a number of herders in Tsogtsetsii *soum*

A		Unit of measurement	2007	2010	2013
A number of herder households		Number	368	302	232
A number of herders		persons	688	531	399
A number of family members per household		persons	1.8	1.75	1.71
Decline: Year 2000=100%	A number of herder households	%	- 11.5	-27.5	-44.2
	A number of herders	%	-21.1	-39.1	-54.2

There were 688 herders in 2007 and this number declined to 399 in 2013, a reduction of 42.0 percent.

The total proportion of herder households in the permanently residing population of the *soum* and the total population is dramatically dropping due to the overall growth of the population due to immigration and changes of preference of the local citizens’ employment. The number of family members per herder household has also declined to 1.71 from the same indicator in 2007.

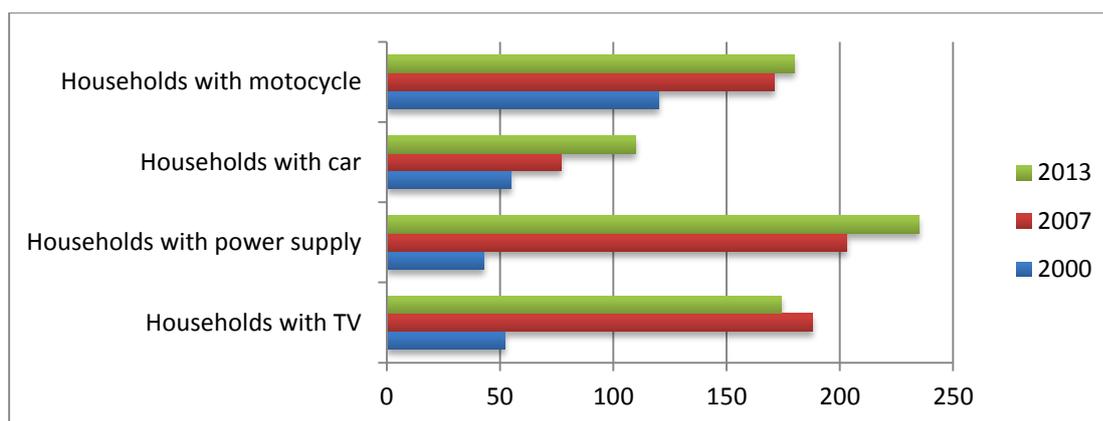


Figure 2.4.2 Livelihood improvement of the herder household, total weight, %

All herder households were provided by the power supply, 75.0 percent of the households has TV, 47.4 percent has an automobile and 77.5 percent has motorcycle and the current indicator has considerably improved from the indicators of 2000-2007.

Total of 222.18 hectares of land has been possessed by 4457 citizens as of 2013 for family use.

Livestock industry

At the end of 2013 the *soum* had 2141 camels, 4472 horses, 778 cattle, 2104 sheep, 36949 goats.

Table 2.4.4 Number of livestock population 2009-2013

Livestock species	2009	2011	2013
Total livestock	51660	44411	65741
Camel	1992	1910	2141
Horse	4260	3223	4472
Cattle	895	433	778
Sheep	26664	14619	21401
Goat	17849	24226	36949

The number of total livestock increased by 21.4 percent as of the end of 2013. The graph below shows increase and decrease of livestock population since 2009.

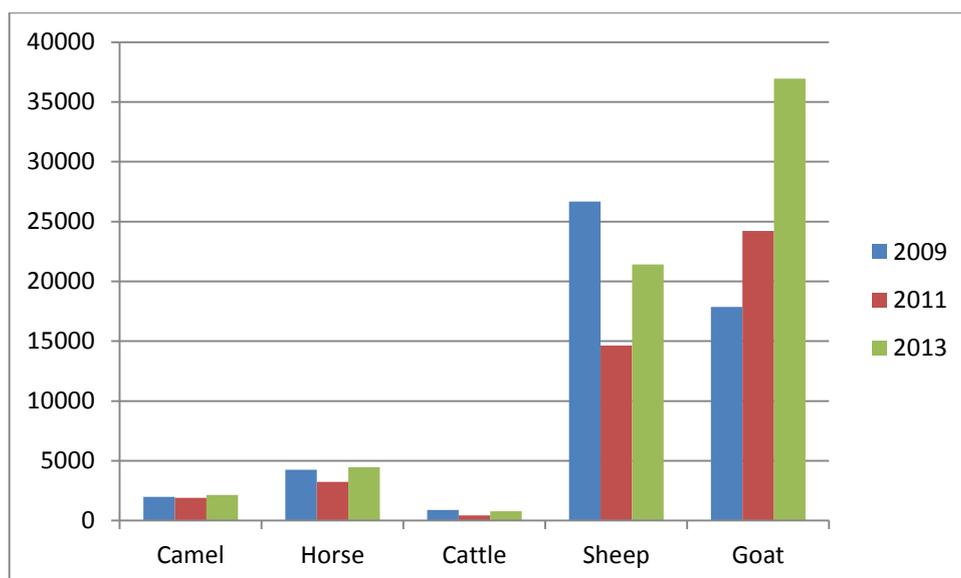


Figure 2.4.3 Livestock number, by species 2009, 2011 and 2013

In 2013 the number of camels increased by 7 percent, horses by 5 percent and goats by 51.6 percent while sheep and cattle decreased by 24.5 and 15 percent compared to 2009.

Table 2.4.5 Animal fodder planting

Planted area /ha/				Harvest /t/				Unit harvest /centner/			
2010	2011	2012	2013	2010	2011	2012	2013	2010	2011	2012	2013
0.0	1.0	2.0	1.0	0.0	0.50	5.0	15.0	-	5.0	25.0	150.0

Livestock fodder planting increased for the last 3 years. Some 15 tonnes of fodder was harvested in 2013.

The figures below shows the *soum*- wide raw material sales in 2013.

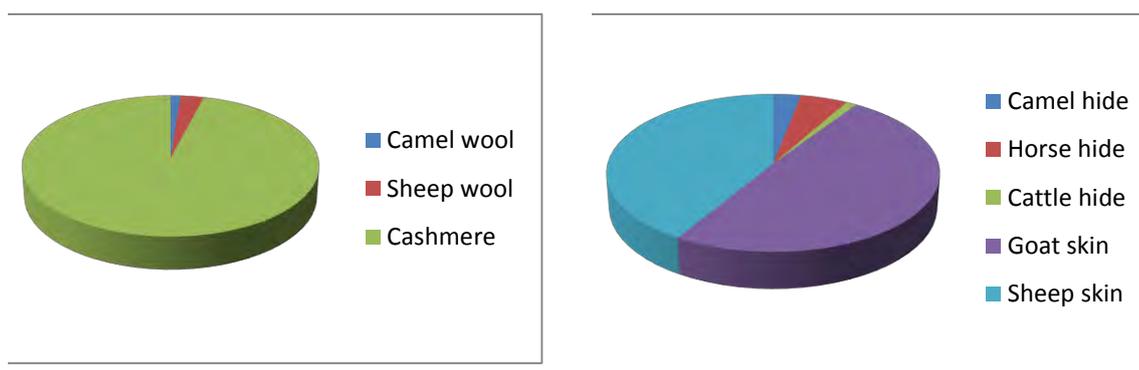


Figure 2.4.4 Raw material sales

As of 2013, the *soum* sold 7.9 tonnes of camel wool, 18.5 tonnes of sheep wool, 629.2 tonnes of cashmere, 89 camel hides, 152 horse hides, 32 cattle hides, 1759 sheep skins, and 1455 goat skins to the market.

Pastureland use. The *soum* land use is dominated by the pastures, a key livelihood resource for *soum* rural households.

Table 2.4.6 Pastureland classification

	Pastureland	2011	2012	2013
Tsogttsetsii	Total pasture /hectares/	688238	686400	685822.47
	Winter-spring	277878	277863	277838
	Summer-fall	410359	408536	407983

The total available territory for the *soum* pastureland has been reduced by 2415.5 hectares of land in 2011 because of mining expansions.

Winter camps. Winter camps are usually built in the mountainside and downhill where the water is accumulated better and has better grass and water supply. During the winter, herders graze their livestock near the winter camp and use the animal fodder, grass and wheat to feed the livestock. Winter camps will generally have animal shelter, *ger* and small wooden or metal barn. Winter shelters of Tsogttsetsii *soum* herders are shown in Figure 2.4.5. Herders will usually have hand-dug wells or small drilled wells near their *ger*.



Figure 2.4.5 Herder's winter shelter

Natural materials such as rocks and timber are used to build winter/spring shelters and some additional materials such as metals and rubber tires can also be used¹¹. Mostly, one winter camp is used for many years, but there is no specific information regarding how long one winter camp can be used.

Seasonal moving pattern and summer pastureland. The herders move to good pastureland during the summer and fall when the grazing land is fresh and they live in a *ger* during this season. Such summer pastureland is located near the hand-dug wells where both herder family members and livestock can be provided with water. According to the baseline survey carried out in Umnugobi in 2008, 39 percent of Tsogttsetsii *soum* herder households move seasonally during the summer and the fall. It has been identified that the herders move a short distance during the spring. All year around, a herder household move on average 5-6 times, travelling 12-13 km and this movement depends on the number of family members and livestock¹².

¹¹ Ukhaa Khudag Project, First draft of Environmental and Social Impact Assessment, Phase II, Energy Resource LLC, September, 2009 (pages 5-128).

² Social, Economic and Environmental Baseline Study of the Umnugobi *Aimag*, 2008

Tsogttsetsii *soum* herders mostly move within their own *bag* traditional territory and if the summer pastureland yield is weak, in some years the herders graze their livestock in Manlai, Bayan-Ovoo and Khankhongor *soums*.

Khutliin khuv summer pastureland of Tsagaan Ovoo Bagh in Tsogttsetsii *soum* is shown in Figure 2.4.6.



Figure 2.4.6 Herders' summer pastureland

Herders' water use. Water is the major resource of the pastureland, and seasonal movement directly depends on the location of water points. Herders get water from the hand-dug wells because there are no permanent surface water sources. Generally, herders' hand-dug wells will be 5-20 meters deep, but some herders also use drilled deep-water wells. Both people and livestock consume water from these wells. Zuun bulag and Mail wells are shown in Figure 2.4.7.



Figure 2.4.7 Herder hand wells

Pastureland use pattern. As a part of the field study conducted in August, 2014, the pastureland use pattern has been determined in two major areas of the impacted zone with the purpose of determining the pastureland use pattern of the Gobi region's herder households. Herders were requested to draw the four seasonal pastureland boundaries, where they graze their livestock and they have been discussed, verified and agreed by neighboring herders (Figure 2.4.8).

An image of pastureland use has been drawn based on the pasture use by L. Norovdorj, G. Jargal, Ch. Iderzorig and Ch. Iderdampil, the herders of Mogoi Bagh in Bayan-Ovoo *soum*.

Each family has its own winter and spring pastureland, particular grazing land for herding their livestock. When the spring and summer pastureland is in better condition, inward herders come and stay during the summer and spring, in this circumstance the herders, who use that pastureland share the grazing land with other herders in harmony. But after July, it is not permitted to graze livestock near winter shelters, as they must rest to be available during the cold months. All 4 herders who participated in the survey could identify the borders of pastureland that they use and it proves that the herders' pastureland does not overlap with one another and unofficial borders of pastureland among herders do exist in practice, which are commonly accepted by the neighboring herders.

Herder L. Norovdorj: We stayed at the Khairkhan farmstead for winter pastureland and at Oroin Khonkhor for summer and fall pastureland. We graze our livestock during the winter 3-4 km to the north and southwest. Our grazing land borders with herder G. Jargal's pastureland in the south, herder P. Badral's pastureland in the west, herder B. Galbadrakh's pastureland in the north, and the herder Iderdampil and Iderzorig's pastureland in the east. We move to the summer pastureland directly from the winter camp, our fall pastureland is located 7 km to the east from herder Iderzorig's winter pastureland, but his livestock do not come to our fall pastureland, as our pastureland is separated by the eastern ridge of the Khairkhan. We are separated from Galbadrakh's pastureland by the Shovgor area, and from Jargal's pastureland by Elst Khoroot. In the north, we are separated by Oroin Khudag.

It is said that long-leg livestock, such as horses and camels graze everywhere, but the water point to drink is clear, therefore even if we lose the livestock we have our own assumption where the livestock could be. For example, our camels are not here. May be they are grazing near Zairmag.

Extraction from the herder L. Norovdorj's interview

Herder G. Jargal: Our summer pastureland is in the east of our winter pastureland. Ch. Iderorig's winter pastureland is in 3 km, L. Norovdorj's winter pastureland is in 5 km to the northwest. Elst Khooloi is the separating point of our pasture from Norovdorj's pastureland. Our pastureland is separated from Ch. Iderzorig's pastureland by Tesget Khooloi, we don't have neighbors in the west, Iderdampil's camp is 3 km far from here. We travel 3 km to the south from our summer pastureland to get water from Duut Us. All year around, we stay near this area and nobody's livestock bother the other's grazing land and the pastureland is not overlapped. Long-leg livestock, such as camels and horses graze within 10 km and do not go far from the grazing area and the water point. The only problem for us is to cross 4 roads when move to the *soum* center.

Herder Ch. Iderzorig: Our pastureland borders with G. Jargal, Ch. Iderdmil, L. Norovdorj and P. Badral's pastureland. In the north, we border with Norovdorj's pastureland, it is about 6 km far from here. We are relatives with G. Jargal and Ch. Iderdampil, therefore our pastureland is deemed to be the shared pastureland.

Interviews with above herders and the pasture use pattern image prove that herders' pastureland use pattern is typical during the normal weather condition, the change in

pastureland use pattern is minimal and it is possible to determine the separating borders of pastureland.

The above-mentioned households havestayed in the area for the preceding 5 years, except the herder L. Norovdorj, who moved to Khanbogd mountain area in Khanbogd *soum* during the 2009 Dzud. The rest of the households did not significantly move.

Comments regarding compensation:

When the question regarding the compensation expected by the herders if their grazing land, the major source of animal husbandry is impacted by various impacts and eventually loses its pasture; the herders who participated in the survey, L. Norovdorj, Ch. Iderzorig, Ch. Iderdampil and G. Jargal responded that they agreed with the suggestion for a method of potential calculation of annual income generated from the livestock production and animal husbandry. This would be done by identifying the lost pastureland percentage in order to pro-rate the lost income generated from the animal husbandry against the lost pastureland percentage and provide the compensation on annual basis; for as long as relevant..

Herders do not generally cooperate together. The closest neighbor is at a 5 km distance. For the last 5 years, herders stayed in the same place during the summer.

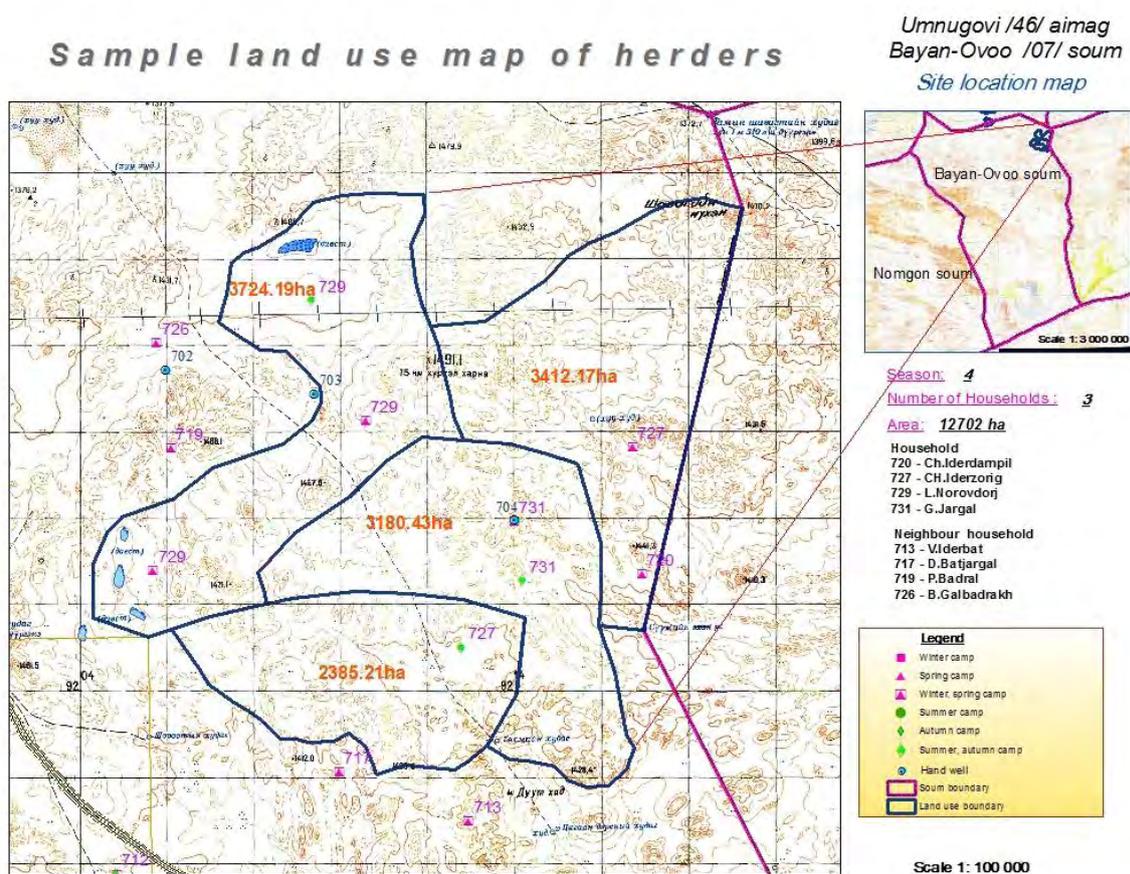


Figure 2.4.8 Herders’ pastureland use pattern

Soum budget. One of the important factors of the *soum* economic development is the local budget revenue and expense. Budget revenue increased 1770.0 times while budget expense

increased 9.7 times for the last decade. Tsogttsetsii *soum* made up 0.7 percent of the *aimag* budget revenue in 2004 which has steadily increased reaching 20.9 percent as of 2013. Such high increase of the budget revenue is due to the coal mines operating in the *soum* and associated business growth.

Table 2.4.7 Budget revenue and expense of Tsogttsetsii *soum* 2004-2013, MNT m

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Budget revenue	7.3	9.7	19.2	172	264.4	1979.7	3548.5	11234.8	11545.1	12920.8
Share in the <i>aimag</i> budget revenue	0.7	2.6	5.7	18.2	2.0	8.0	18.8	10.3	10.5	20.9
Budget expense	49.3	44	112.3	122.4	142.9	154.1	262.5	182.5	274.2	480.5

Education. There are one state-owned secondary school and one private school in Tsogttsetsii *soum* where 1390 children study. The schools have 82 teachers and 52 employees. The number of students increased 3.86 times and the number of full-time teachers increased 4.79 times since 2004 in connection with the increased migration. In 2004 some 23.6 percent of the students lived in dorms however only 8.8 percent live in dorms now. The number of new students increased 5.1 times in 2013 compared to 2004 (Table XXX).

Table 2.4.8 Growth in education sector of Tsogttsetsii *soum* *

À	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Number of students	360	383	423	451	446	498	705	824	1191	1390
Number of employees	28	32	32	34	37	42	51	58	130	134
Full-time teachers	17	16	16	16	19	22	31	38	73	82
Students living in dorm	85	101	118	118	100	101	70	75	176	123
Number of new students	35	38	49	76	46	59	86	88	135	178
Number of students entering 9 th grade	-	0	13	48	34	45	98	54	90	120
Graduates of 9 th grade	38	44	28	45	46	34	45	105	90	95
Graduates of 11 th grade	-	0	0	0	0	0	0	0	69	68

* *Source: Umnugovi province statistics -2013*

Health. As of 2013, there was one state-owned hospital, 10 doctors, 3 college-graduated doctors, 6 nurses, and 9 employees in Tsogttsetsii *soum*. Availability of doctors is lower compared to the average of the *aimag* and other *soums*. There are 398 persons per doctor according to the *aimag* average however 611 persons are allotted per doctor in Tsogttsetsii *soum*.

Table 2.4.9 Health sector statistics of Tsogttsetsii *soum* *

À	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Employees in health organizations	15	14	15	17	20	21	19	25	28	28
Doctors	1	1	2	2	3	3	3	4	6	10
College-graduated doctors	2	3	3	3	5	4	5	6	4	3
Nurses	5	3	4	5	4	6	4	5	7	6
Infant mortality	1	3	2	1	5	0	1	0	1	5
Patients sicken with communicable diseases	4	7	5	3	41	13	3	32	16	53
Patients with hepatitis	3	6	1	2	39	10	2	28	15	5

* *Source: Umnugovi province statistics -2013*

Death rate per 10000 capita was 55.2 in 2004 which decreased to 45.8 in 2013. It is lower by 6.1 percent than the *aimag* average.

As for other social indicators such as civil society and community organizations and religion there is little information except for the Social, Economic and Environmental Baseline Study of the Umnugobi *Aimags* in 2008. For example, 80% of the Tsogtsetsii *soum* citizens are Buddhists, 1.7% - Christians and 18.3% - non-believers¹³. The most active civil society organization is the Tsetsii Nutag NGO engaged in environmental protection activities among local people in addition to usual but mostly inactive local branches of UB-headquartered organizations such as women’s association, youth association, elder’s association.

2.5 Resettlement Impacts

The area was the herders’ important pasture resource prior to the commencement of East Tsankhi mining operation in 2010.

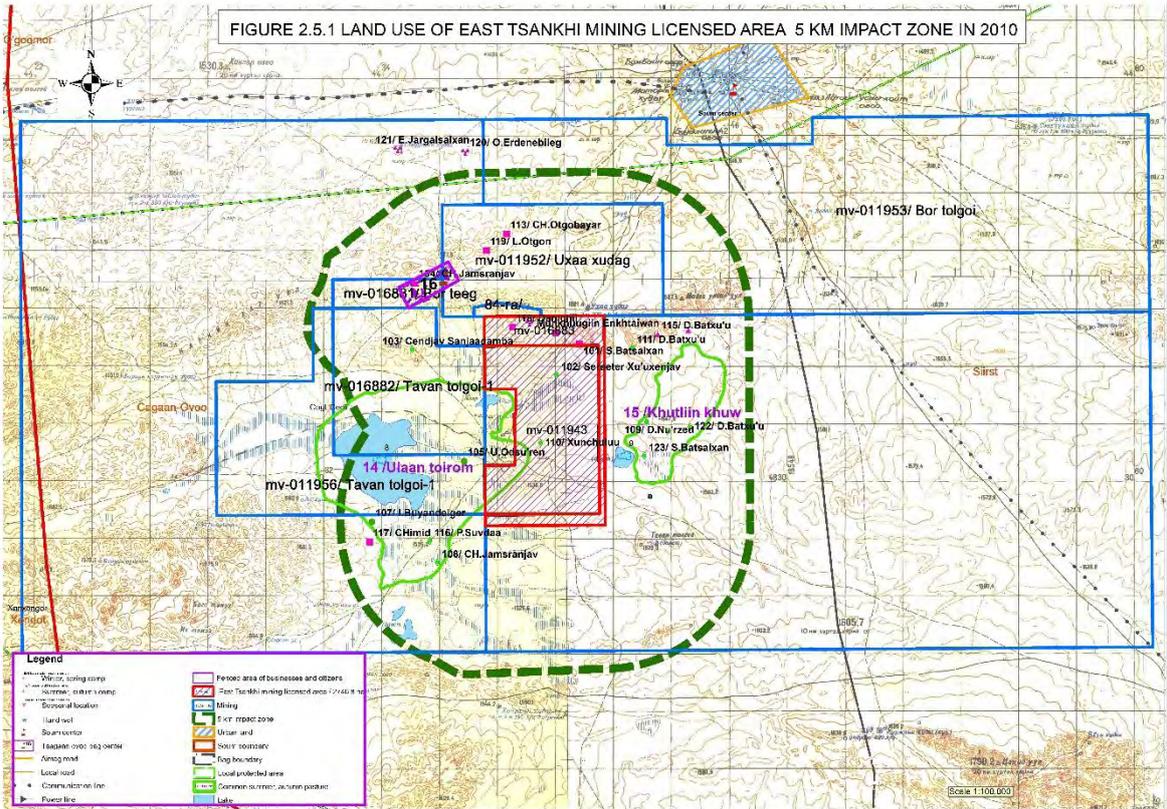


Figure 2.5.1 Land use in East Tsankhi area in 2010

The impacted zone was defined based on the Gobi region’s grazing of short-distance livestock (cattle and small stock), in other words by the distance, that sheep, goats and cattle can be grazed from the camp site. If the exclusion zone border enters the herder household’s camp more than 5 km inward, it will be a rationale for considering that the livestock pasture will be restricted. If the pasture for long-leg livestock such as pasture for camels and horses is to be used, more distance needs to be considered.

¹³ Social, Economic and Environmental Baseline Study of the Umnugobi *Aimags*, 2008

Table 2.5.1 Eastern Tsankhi area’s pasture use and mining impact, 2010-2011

Impacted zone	Land users	Out of which:		
		Affected by the ETT’s physical displacement	Affected by the Energy Resource company’s displacement	Affected by economic displacement /uncompensated/
East Tsankhi Mining Licensed Area	A1. 4 households, whose winter pastureland is located; 3 households, whose summer and fall pastureland is located, totally 6 households	A2. 2 households, whose winter pastureland is located /compensated/	A3. 2 households, whose winter pastureland is affected by the physical displacement /compensated/	A4. 2 households, whose summer and fall pastureland was limited
5 km radius of affected area from the East Tsankhi Mining border	B1. 5 households, whose winter and spring pastureland is located; 15 households, whose summer and fall pastureland is located, totally 20 households	None	B3. 5 households, whose winter pastureland is affected by the physical displacement / compensated /	B4. 15 households, whose summer and fall pastureland was limited
Total	26 HHs	2 HHs	7 HHs	17 HHs

Long-distance grazing livestock (camel, horse usually graze without tendering) pasture is impossible to be estimated by each household, thus it can be resolved through implementing *soumwide* herder support programs as a part of resettlement action plan. There is a current practice, which other mining companies, such as Oyu Tolgoi company is using such approach. (See section 2.12 for more details).

Before ETT started its mining operation, we used to stay throughout the summer and fall in the southeast of Ulaan Toirom. Since the mining operation started, it became impossible to stay the same area and we moved to Tsagaan Ovoo Bagh. Ch. Jamsranjav, Affected herder

Table 2.5.1 shows that 6 households with livestock used the pasture inside the Eastern Tsankhi mining “A” license area, out of which 4 households, whose winter pastureland was affected by the physical displacement and 2 of them received the compensation from ETT and another 2 households received the compensation from the Energy Resources company. But 2 households, whose summer and fall pastureland access was limited due to the economic displacement was not included in the resettlement action plan. Generally, East Tsankhi mining “A” license area, and its surrounding impacted zone covers the Ulaan Toirom and Khutul khuv area, which is the summer-autumn pasture for herders, where natural water

sources provide water for livestock. However, mining companies mainly focused on the herders, who has fixed points such as winter camps, spring camps or wells etc and excluded the herders, whose summer and autumn pastureland access was restricted. Summer and autumn pasture is the major source for fattening the livestock and by losing such an opportunity may reduce the livestock productivity, some livestock may even not survive through the winter and this will negatively impact the herders' income. Therefore, it is appropriate for such herders to be included in the resettlement action plan and receive appropriate compensation. Exclusion of these herders from the resettlement action plan has been caused due to inappropriate use of criteria defined by the World Bank for estimating the participants for the resettlement action plan in the past.

Interviews with 6 economically displaced households in August 2014 show that they lost their summer-autumn pastures. List of economically displaced herders is shown in Table 2.5.2a.

Table 2.5.2a Herders economically displaced by the East Tsankhi mining as of 2010

No	Household head name	ID of seasonal camps on Figure 2.5.1				Lost pastures in ha	Current situation
		Winter	Spring	Summer	Autumn		
A	Within East Tsankhi A licensed area						
1	S.Khuukhenjav	12	12	102	102	322	Out-migrated
2	Khunchuluu	Outside		110	110	65	Out-migrated
B	Within 5 km impact zone						
1	Ts. Sanjaadamba	4	4	103	103	467	Out-migrated
2	Ch.Jamsranjav	104	104	108	108	402	Out-migrated
3	U.Odsuren	Outside		106	106	1444	Out-migrated
4	I.Buyandelger	Outside		107	107	1498	Out-migrated
5	D.Nurzed	Outside		109	109	2772	Out-migrated
6	Ts.Boldbaatar	7	7	116	116	424	Out-migrated
7	Chimid	117	117	14	14		Deceased
8	L.Otgon	119	119	119	119	150	Settled in bag center
9	M. Enkhtaivan	125	125	125	125	2538 (Camp together)	Out-migrated
10	A.Enkhtuya	6	6	14	14		
11	J.Molikhuu	5	5	5	5	922	Out-migrated
12	S.Munkh-Eedene	9	9	9	9	458	Out-migrated
13	B.Babtbold	10	10	15	15	1597	Out-migrated
14	Ch.Munkhchuluun	13	13	13	13	922	Out-migrated
15	B.Munkhbold	Outside		14	14	922	Out-migrated

Out of 15 households Chimid deceased, L.Otgon lost livestock and settled in Tsagaan-Ovoo bag center and other out-migrated from the impact area. The East Tsankhi licensed areas is surrounded by other licensed areas of ETT, so the whole impact area is subject to displacement in future anyway.

Before ETT started its mining operation, we used to stay around Khutliin khuv during the summer and fall. Since 2011, we stopped moving there, because of the mining dust, smoke, noise and lack of water etc. Pasture has been degraded enormously. D.Nurzed, Affected herder

Table 2.5.2b Information about 2 households included in ETT’s Resettlement action plan

Indicators	Household 1	Household 2
Name of head of household	O. Erdenebileg	G. Damchii
Citizenship	Tsogttsetsii <i>soum</i>	Tsogttsetsii <i>soum</i>
Number of family members	3	6
Year affected by the resettlement	2011	2010
Number of livestock	Used to have 480 heads of livestock, after 2009 Dzud, lost the livestock and currently has few camels	cattle, 40 camels, 300 sheeps and goats
Lost capital	2 winter camps, 2 herder hand-wells, 4 seasonal pastureland	1 winter camp, 1 deep well, 4 seasonal pastureland, hot water service facility, 1 hectares of cropland (used to plant trees and vegetables)
Capital received as compensation	Received 2 winter camps from the <i>soum</i> government, 15 million tugrugs from ETT and 3 children were employed (requested to create a well at new winter camp)	Received 1 winter camp from Energy Resource company, 1 deep well from ETT company and received 0.7 hectares of land from the <i>soum</i> government by own efforts.
Current situation	Lives at Tsogttsetsii <i>soum</i> center, few livestock are tended by other herder.	Has new land at Tsagaan-Ovoo Bagh and runs vegetable gardening business, livestock is tended by other herder.

In addition to the above-mentioned herder households, there are many business entities that are running small businesses such as car and tire repair, canteen service along the road upto Gashuun Sukhait and within the Eastern Tsankhi Mining “A” license area. ETT company is making effort to resolve any land dispute or land use issues related with these business entities and other organizations. For instance, Chief Executive Officer of the company issued the resolution on April 24, 2014, which established “A working group to resolve any land dispute or land use issues with business entities and citizens operating on the Tavan Tolgoi mining license area”, and this working group is currently operating. There are totally 96 business entities running businesses at the company’s mining license area, out of which 42 possess the land possession license and 54 have no official permits, as stated in the working group report. Some land use permits were issued by the ETT company, but some were issued by the *soum* government without consulting with the company.



Figure 2.5.2 O. Erdenebileg’s winter camp affected by the resettlement

Pursuant to the Land Law, land license holder’s right to transfer the license for others upon approval of the person (*soum* governor) who made the decision on giving the land possession license is open. In the future, it is clear that the land possessed by the business entities and other organizations may be affected by the resettlement when the company’s operation expands. But the resettlement action plan needs to be developed in compliance with the World Bank requirements. (Please see more details from Section 2.12).



Figure 2.5.3 Garden planted by Damchii at his newly possessed land, around 3000 trees of over 10 species.

The key infrastructure in the mining area is Tavan Tolgoi –Gashuun Sukhait auto road used by coal transportation. Although the asphalt road is built, coal transportation using the old dirt road is still in practice making much environmental damage and displacement impact for

One issue of importance is cultural heritage. The existing data show that the only recorded cultural heritage site in the Tsogttsetsii *soum* is Tugiin Tsokhio¹⁵ which is outside the East Tsankhi impact area.

2.6 Consultation on Resettlement

There is very limited information regarding any consultation events on resettlement. On the one hand, it is due to the absence of a sustainable team in charge of resettlement, lack of knowledge of people who were handling resettlement and the lack of information linkage and continuity; on the other hand, it is also due to insufficient or limited consultation events.

It has been stated above that the resettlement has not been properly planned in advance, public or the community was not properly informed and cut-off date was not announced properly.

In addition, the company's initiatives to inform about the rights of affected people, providing opportunities for affected people to choose from various compensation options and seeking of alternative means for affected people were insufficient.

The number of affected people by the physical displacement was minimal and it was relatively easy to administer the physical displacement, although the company lacked the proper skills and initiative. For instance, Ch. Enkhbayar, ETT's Mining Department Director in charge of Resettlement at that time, B. Batsaikhan, Branch Director called G. Damchii, an affected person by the physical displacement from Umnugobi province and met him in 2011 and said that the company was unable to provide the compensation requested by him and offered to provide 5 million tugrugs for vegetable and crop land payment, 25 million tugrugs for building the winter house, dismantling and transporting the animal shelter, digging the deep well near the new winter camp to replace the old water well, installing hot water facility at the container located at the Tavan Tolgoi village to replace the hot water service facility. Citizen, G. Damchii accepted the offer and additionally requested to expand the land, which he currently operates small grocery store and employ his son-in-law. The company promised to resolve these requests, but until today, the company's promise of building hot water facility and hiring his son-in-law was not implemented and G. Damchii is still complaining about it. There is no information regarding how his asset was valued.

In terms of Mr. O. Erdenebileg, who was affected by the physical displacement, he concluded the land possession license transfer agreement with the company at that time due to his lack of knowledge and today he felt he was not able to enjoy his rights. One family received 10 million and the other family received 5 million tugrugs, commitments offered by the company at that time was promising, but the company was not able to completely fulfill the promises. We had 2 water wells, for replacement we received 2 winter camp license and requested for water well.

A number of drawbacks was noticed from these consultations:

- There was a general lack of participation and especial account has not taken with regard to women and vulnerable people's participation
- Due to a lack of complete study of the resettlement coverage, mainly focused on the physically displaced people and neglected the economically displaced people.

¹⁵ Social, Economic and Environmental Baseline Study of the Umnugobi *Aimag*, 2008

- Inventory of capital and income of affected people has not been done, cut-off date has not been officially announced.
- Actual loss of capital of the affected people has not been realistically estimated, calculation method or approach used is unclear and/or method of full replacement cost has not been used.
- The company chose one package of compensation and offered no alternative options.
- There is a rationale for concluding that committed compensation package was not fully provided and the implementation of the compensation was not monitored.

The consultation with local governments was absolutely not satisfactory (From interviews with Tsagaan-Ovoo bag Governor Bayarshaikhan).

2.7 Compensation for Affected Parties

As mentioned above in 2.5, a total of 26 households were impacted by either economic or physical displacement due to ETT company's Eastern Tsankhi mining operation, out of which 2 households received compensation for physical displacement from ETT and 7 households received the compensation for physical displacement from Energy Resources company. However, 17 households impacted by economic displacement have not received any compensation. In addition, ETT company has not provided any compensation for the affected households, that are living along the Gashuun Sukhait road¹⁶.

Table 2.7.1 Compensation provided by ETT company to the affected persons impacted by the physical displacement

Indicators	Household 1	Household 2
Name of the household head	O. Erdenebileg	G. Damchii
Citizenship	Tsogttsetsii <i>soum</i>	Tsogttsetsii <i>soum</i>
Number of family members	3	6
Year affected by the resettlement	2011	2010
Number of livestock	Used to have 480 heads of livestock, after 2009 Dzud, lost the livestock and currently has few camels	10 cattle, 40 camels, 300 sheeps and goats
Lost capital	2 winter camps, 2 herder hand-wells, 4 seasonal pastureland of around 1250 ha	1 winter camp, 1 deep well, 4 seasonal pastureland of around 550 ha, hot water service facility, 1 hectares of cropland (used to plant trees and vegetables)
Capital received as compensation	Received 2 winter camps from the <i>soum</i> government, 15 million tugrugs from ETT	Received 1 winter camp from Energy Resource company, received 30

¹⁶ Oyu Tolgoi company's resettlement action plan determined 2 levels of impacted zone, one to be in 500 m along two sides of the Gashuun Sukhait road and the other to be in 6:5 km from the road and engaged the affected persons in the livelihood support program. The livelihood support program covers the provision of jobs, animal husbandry and small business support program, educational support program etc. In addition, Energy Resource company provided some compensation such as supplying with water wells and building fences for certain herders, whose pasture and the water was cut or divided along the road from Tavan Tolgoi to Oyu Tolgoi.

	and 3 children were employed (requested to create a well at new winter camp)	million tugrugs from ETT (25 million for building house and 5 million for vegetable gardening), 1 deep-water well from ETT company and received 0.7 hectares of land from the <i>soum</i> government after running around for a while.
Current situation	Lives at Tsogttsetsii <i>soum</i> center, few livestock is herd by other herder.	Has new land at Tsagaan-Ovoo Bagh and runs vegetable gardening business, livestock is herd by other herder.

The table shows that O. Erdenebileg’s family lost its 2 winter camps, each of which had a hand-dug well, and 4 seasonal pastures., The winter camp provided by the company did not have a water well, which makes the winter camp to be impossible to use; thus Erdenebileg’s opportunity for herding the livestock for livelihood was limited and he now lives in the *soum* center. The quality of the new winter camp and its surrounding pasture is supposed to be the same or even better than the old pastureland. But there is no evidence whether such prior study or analysis has been taken. Although this family lost its livestock during the 2009 Dzud, the lack of water well supply has negatively impacted on this household’s livelihood. Capital

and the income inventory had not been done at that time, therefore whether 15 million tugrugs are adequate to compensate the loss occurred has not been properly studied or estimated.



Image 2.7.1 During the interview with Mr. Damchii

G. Damchii’s household lost 1 winter camp, 1 deep-water well, 4 seasonal pastures, hot water service facility and 1 hectare of plantation land that this family used to plant trees and vegetables. ETT company provided 1 deep-water well to this household as compensation. *Soum* government provided 0.7 hectares of land

at Tsagaan-Ovoo Bagh. Energy Resources company provided 1 winter camp and also concluded an agreement to provide a hot water facility using the container, but it was not implemented. According to Mr Damchii, “The company drilled the deep-water well, but there was no waterbed (old water well provided 5 tons of water per 15 minutes, but new well works for 20 minutes until it dewater and we need to wait another 3 hours until to regenerate the water). After the displacement, nobody visited us; when we asked about the hot water facility, they responded that the request was submitted to the management, and already 2 years passed.” G. Damchii’s spouse Ms. Ayush said “If the company provides all the commitments promised as compensation, we have no other complaint. We requested the company to provide the hot water facility and employ our one child. We would be glad if these two requests are fulfilled. Negotiated agreements are more valuable when it is fresh and current, but now everybody is slowing down. The directors are changing quite often and there is almost no one who know what has been agreed or discussed before.”

ETT company's negotiation documents regarding the compensation for these 2 households consist of land possession license transfer agreement and the meeting notes.

The meeting notes is about the company's proposed compensation package stated in the Table 2.7.1 and the signature of the affected person accepting the compensation package offered by the company. The meeting with G. Damchii was held on June 6, 2011 and B. Batsaikhan, Umnugobi *Aimag* Branch Director signed the meeting notes representing the company and G Damchii signed the notes confirming his acceptance of the compensation offer. Meeting notes with O. Erdenebileg was not found.

The land possession license transfer agreements with these 2 households were conducted on August 6, 2011 and the content includes the following:

- Affected person shall transfer the land for xxxx million tugrugs (15 million for O. Erdenebileg, 30 million for G. Damchii) of compensation prior to certain period of time.
- The price of capital on the land shall be included in the amount of compensation.
- Affected person shall confirm the receipt of monetary compensation in writing.
- The land shall be completely evacuated prior to certain amount of time.
- The land shall not be leased, sold, condemned or held for collateral.
- The agreement shall be valid and effective once both parties agreed, signed and notarized the agreement. A copy of the land possession license was attached to the agreement.

The conclusion from the above description:

- The capital inventory of an affected person has not been conducted, cut-off date was not officially announced
- The company determined only one resettlement compensation package and the affected persons were limited with the opportunity to comment, feedback, reject or modify the offer.
- The compensation package does not include the provision regarding to support the affected persons with the cost related to displacement.
- The post displacement livelihood of the affected persons was not monitored and evaluated. The strategy was to provide the compensation and forget about the affected persons.
- An official complaint handling or grievance mechanism is absent.
- The livelihood restoration measures were not taken.

It is inadequate if the affected household and the company discuss and agree on resettlement and compensation entitlement packages, and their implementation. The issues related to resettlement need to be cleared by the *soum* level Working Group, consisting of the *soum* administration, herders, including affected individuals and the company representatives. Therefore, the Resettlement Agreement shall be tripartite as in case of Oyu Tolgoi example.

Resettlement agreement includes the following key components:

- Agreement purpose: Purpose of the Resettlement Agreement is to determine the rights and responsibilities of the parties in connection with the resettlement and compensation issues, including defining impact level and scope, identifying

households affected by the mine tailing location, and type, amount as well as package of compensation.

- Agreement Structure / content:
 - Purpose, parties
 - Terminology
 - Affected households, members
 - Agreement scope and eligibility
 - Entitlement packages
 - Rights, responsibilities of parties
 - Liabilities
 - Effective date and duration
 - Confidentiality
 - Dispute resolution
 - Signatures (3 parties)
 - Annexure
 - Household members (notarized verification documents)
 - No objection for signature on behalf of a household
 - Map with affected household location
 - Asset census and valuation
 - Working Group decision regarding a household
 - Compensation Entitlements package
 - Other

2.8 Rehabilitation of affected households, business entities and the infrastructure

As mentioned in previous sections, the goal of the resettlement was to resolve one-time compensation for affected persons and neglect the monitoring and evaluation of the implementation, thus any livelihood support measures have not been taken.

Major source of income and capital of the affected persons are basically generated from the traditional animal husbandry as stated in 2.5. Therefore, affected herders lost their major source of pastureland including seasonal pastureland, water points etc due to the resettlement. Unlike other families, G. Damchii's household used to plant vegetables and run small grocery store business in addition to their traditional animal husbandry business.

For O. Erdenebileg's case, who was affected by the physical displacement, he received new winter camp but without water well, which made his family impossible to restore the animal husbandry. Therefore, it needs to be resolved as soon as possible. In addition, the reason of Mr. Damchii, who was affected by physical displacement, asking other herders to graze his livestock needs to be clarified and if his new winter camp quality is poor due to the resettlement, it needs to be fixed and assured that his animal husbandry business stay the same as prior to the resettlement or better. The capital and income evaluation of these 2 households needs to be done in order to provide realistic difference of the compensation, and the livelihood support program as a part of the revised resettlement action plan must be implemented.

Impact on 19 herder households, who were economically displaced needs to be realistically evaluated and the package of compensation which is adequate to cover the loss incurred and

the livelihood restoration measures must be designed and implemented as a part of the revised resettlement action plan.

Revised resettlement action plan needs to design and implement the land and resettlement issues of the business entities operating at the Eastern Tsankhi mining “A” license area to be resolved in compliance with the Mongolian laws and regulations and the World Bank’s involuntary land acquisition standards.

The following resettlement issues must be considered for 2015 resettlement action plan for Tsagaan-Ovoo Bagh:

- Resettling this village, where over 200 households live and the majority possess the land license will cause high financial and implementation risks and pressure. Thus it is priority to study and consider the other alternative options for the mining tailings.
- If other alternative options cost more expense and more burden, the resettlement action plan for Tsagaan-Ovoo Bagh must be developed in accordance with the World Bank standard and it is suggested to include it in the Remedial Resettlement Action Plan.

Major infrastructure affected by the Eastern Tsankhi mining is the road to Gashuun Sukhait that transport the coal as mentioned in 2.5. Although Oyu Tolgoi and Energy Resource companies have implemented certain resettlement actions along this road, impact of the current coal transporting practice must be re-evaluated and if necessary livelihood restoration measures must be designed and implemented as a part of the resettlement action plan. Particularly, if the coal is transported on dirt roads rather than paved road, impact of dust shall be re-evaluated. The participation of Oyu Tolgoi, Energy Resource and other companies shall be sought to resolve this issue.

Above-mentioned issues are re-elaborated in section 2.12.

2.10 Management System and Monitoring

The existing situation with the ETT Management and monitoring is discussed in section 2.3 and this section discusses how it should be improved.

Both physical and economic resettlement related activities are essential part of the company social responsibility and stakeholder engagement, and their implementation outcome has a direct impact on sustainability of the business and its operational efficiency. On other hand the business has primary responsibility to provide preference of covering the affected households and individuals by the programs and projects implemented by the company. Despite that the resettlement can be considered as “one-time” intervention; however it has long-lasting effects on local people’s living and sustainable livelihood. Therefore, the company’s optimal structure aligned with business values and local priorities, and their coordination plays an important role.

The functions related to social responsibility and community relations shall be managed and coordinated by a separate organizational unit, and this unit has the following primary goals:

- i. Earn and maintain the company’s social license to operate;

- ii. Build and maintain enduring relationships with communities, government and civil society based on mutual trust and openness;
- iii. Engage individuals and groups to mobilize community resources and pursue local development opportunities; and
- iv. Ensure alignment across the company to establish objectives and plans that support the company's social performance mission, and achieve performance-based, measurable results.

The following streams of functions are identified to reach the above goals:

1. Community development:
 - a. Develop and implement community development strategy aligned with mine closure plan;
 - b. Collaborate with the community and other local stakeholders in developing and implementing strategies to support local development priorities;
 - c. In collaboration with the mine-impacted communities and local governments, develop and execute a cooperation agreement to guide local and community investment priorities.
2. Community relations:
 - a. Maintain mutually respected and long-term relationship with the local stakeholders;
 - b. Contribute towards the development of an empowered community through community engagement, communication and the strengthening the civil society;
 - c. Liaise with Government and other public and private sector planning and implementing agencies active in the region.
3. Management and compliance:
 - a. Develop and implement departmental management system;
 - b. Ensure compliance with laws and standards;
 - c. Maintain monitoring and evaluation.

The resettlement related activities are managed by a team consisting of 3-4 staff, and their functional sub-division is based on geographical location of affected households. The team consists of the following staff, each of whose responsibilities are described below:

1. Team leader or unit head:
 - Lead the design and implementation of Resettlement Action Plan (RAP), and making sure that it is aligned with international standards and other requirements;
 - Represent the company in the *soum* level Resettlement Working Group;
 - Provide guidance and participate in the negotiations with affected households and individuals on resettlement and other sustainable livelihood restoration measures;
 - Address complaints and grievances regarding the resettlement and compensation;
 - Design supporting programs and measures to assist the livelihood of affected individuals and align them with the RAP;

- Maintain monitoring and evaluation of RAP implementation and ensure disclosure of their results.
2. Community Relations Officers (2-3):
 - Conduct *soum* level socio-economic baseline study, collect economic and social household level data for affected families, and maintain other relevant data base;
 - Arrange collection of monitoring socio-economic data for affected households and participate in various assessments;
 - Assist in operationalizing the *soum* level Resettlement Working Group;
 - Arrange consultations with affected households and individuals, deliver information and ensure participation of relevant stakeholders in the resettlement process;
 - Other.
 3. Monitoring and Evaluation Specialist:
 - Maintain and update affected households data base;
 - Organize monitoring and evaluation of program and agreement execution internally and externally according to the schedules;
 - Prepare reports and ensure their disclosure and delivery to the concerned parties.

The main mechanism to reach the above goals is delivery of the programs and projects designed on the basis of local development priorities, community needs and demand. The local stakeholders of Tsogttsetsii *soum* shall take active participation in the design and implementation of these programs. Moreover, these programs must be openly communicated with local stakeholders.

Organization of the *soum* level institution such as a Local Advisory Group plays a vital role in decision-making regarding local development, and for specific subject-matter a designated Working Group can be as valuable resource. The Local Advisory Group is an independent, sovereign, non-governmental body aimed at assisting the formulation and implementation of ETT company's policy towards regional and local development, ensuring equal participation of the government and private sectors stakeholders, and their sustainable functioning. The group consists of the representatives of *soum* administration, civil society and private business, and its membership is formalized by the order of the *soum* Citizens Representative Khural chairman.

For specific issues or subject a Working group can be established based on mutual consensus of the *soum* and the company. The Working Group discusses specific issues, provides an expert conclusion and ensures communication and participation of local stakeholders. The Resettlement and Compensation Working Group and its Terms of Reference are stipulated by the order of the *soum* governor. The Working Group meets regularly, and its recommendations and decisions are communicated openly to the public. The information is published in ETT local newsletter.

All decisions related to resettlement and compensation of affected households and individuals are made by this Working Group and they are documented in the Minutes of the Meeting. The Working Group makes decision regarding the principles to be adhered, eligibility criteria for resettlement and compensation, cut-off date, entitlement / compensation options,

implementation procedures, and monitoring & evaluation mechanisms. In addition the Working Group serves as a mediator if the specific complaints were not addressed by the company Grievance Management Procedures.

Third parties such as subject-matter experts, lawyer or independent auditors can be involved in the resettlement process based on recommendations from the Working Group or request of the community members, including the affected individuals. Their Scope of Work or Terms of Reference are guided by the Working Group.

2.10 Grievance Redress System and Results for Complaints Received

The available secondary data as well as interviews with relevant people indicate that ETT has no formal grievance redress system. This section describes an ideal grievance redress system that shall be adapted and implemented by ETT, in order to comply with OP 4.12.

- ETT mine applies the Grievance Management Procedures for complaints filed by an individual or other bodies regarding the company operations. The procedures are approved by ETT CEO, and the procedures are made available in UB office and the mine site, and advertised widely and carefully explained to local community members, especially those displaced by the project.
- The prudent management and resolving of the lodged complaints enables the company to prevent the re-occurrence of such cases, introduce remedial actions, mitigate the risks of community conflict and unrest and possible escalation to the higher instances (shareholders, central government, court, international agencies, etc).
- The Grievance Management Procedures differentiate the complaints from the requests / proposals, assigns the categories of complaints in terms of operational areas and complexity / possible risks. The most important moment is to differentiate the complaints from the emergency cases and report immediately to the concerned personnel / unit¹⁷.

The grievance redress system shall comply with the international standards as well as the existing best practices in Mongolia. Therefore, it is recommended that the grievance redress scheme used by Oyu Tolgoi be considered as the first option. The following flowchart depicts the Oyu Tolgoi Grievance Management Procedure. The option can be improved further by ETT company through consultations with local governments and communities.

¹⁷ Emergency personnel can be personnel or unit in charge of emergency (safety) or emergency assistance to the communities

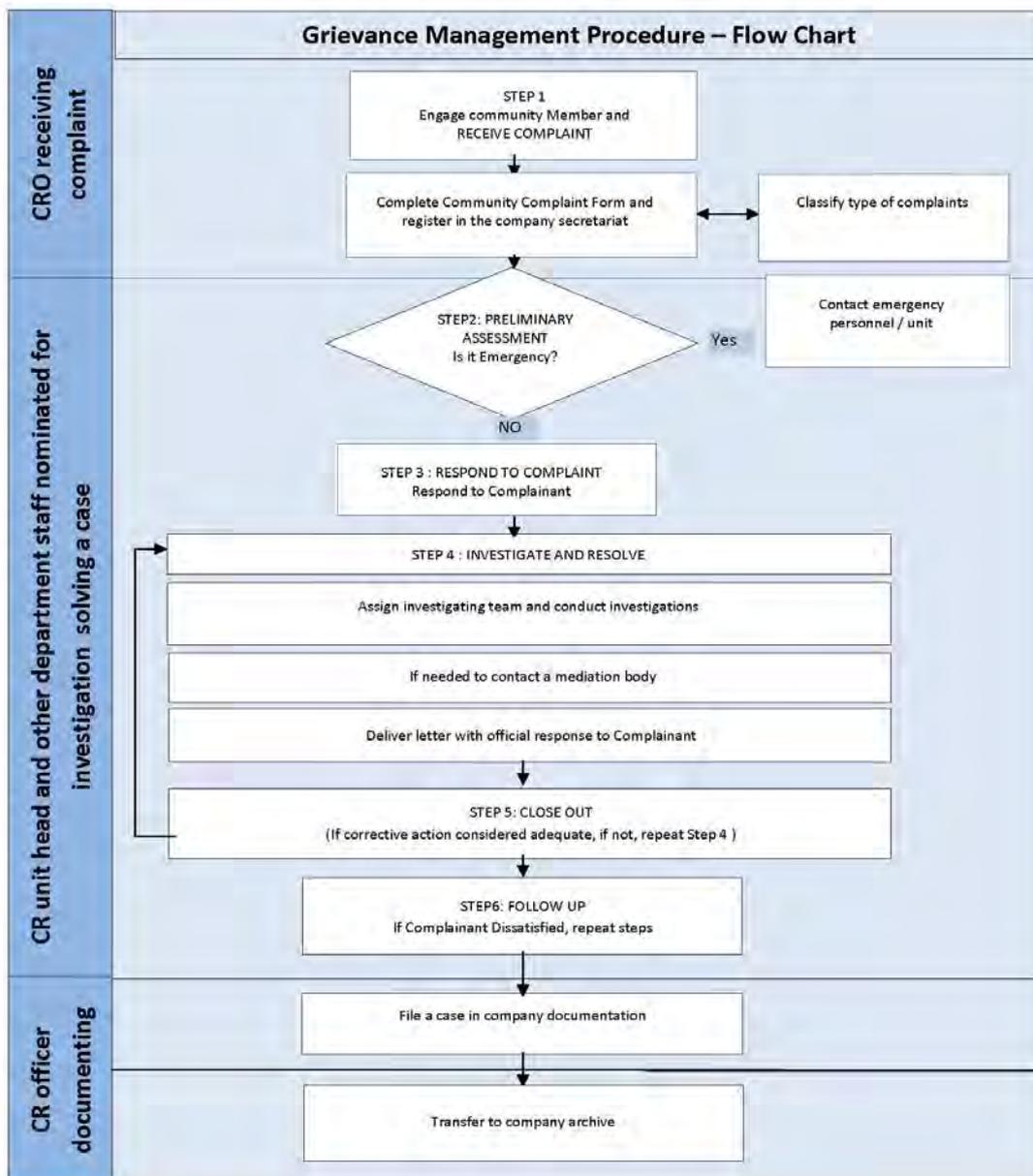


Figure 2.10.1 Proposed grievance redress scheme

It is planned that step 4 is repeated until the affected person is satisfied. However, If no amicable solution can be reached, or if the affected person does not receive a response within this step which also involves mediation, he/she can appeal directly to the ETT company’s chief officer officially assigned to deal with complaints in Ulaanbaatar, who will act on the complaint/grievance within 14 days of the day of its filing. If the affected person is not

satisfied with the decision of the ETT company's chief officer, he/she, as a last resort, will submit the complaint to a court.

2.11 Evaluation of the resettlement implementation

Previous section described the results of the activities organized by the ETT company targeted for affected persons of the Eastern Tsankhi mining, how these activities were implemented, whether these activities were in compliance with international standards, and gaps for improvement. This section describes the evaluation and conclusions which can be considered as not only those by the consultant but also reflect opinions of other stakeholders as they are based on interviews with them and other available data.

The current evaluation and conclusions were made at the information gathering and analysing stage and include substantial discussion engaging multi-stakeholders such as local government, affected persons and ETT company. However, additional information gathering and analysis needs to be done for more comprehensive evaluation and conclusion with better results.

Regarding the institutional framework in charge of resettlement

- ETT company does not have a competent structural unit in charge of resettlement and displacement within the company, thus the strategy of coordinating the resettlement issues was the secondary task for the staff until today. Although this strategy may save the cost and resources for short term, in the long-run it may negatively impact on the company's reputation at the international market and the local government, and eventually it will cause negative consequence of limiting the company's opportunity to raise funds or get loan from international financial markets. This tendency is already apparent among local citizens, particularly among affected persons.
- Treating the resettlement issues as the secondary tasks became the major reason for the content, coverage and the quality of the resettlement action to fall behind the international standards.

Regarding the resettlement impacts

- Regional land use patterns, common characteristics, seasonal pattern of pastureland use and the livestock movement were not considered for determining the impacted zone. Only herders with tangible capital such as winter camp, spring shelters, water wells etc have been considered and the access limitation of the summer-fall pastureland and "otor" pastureland was left out. This is simply because economic displacement was ignored, criteria for determining the affected persons was not developed in compliance with international standards.
- Possibility of compensating actual losses based on realistic valuation of the capital has been lost due to absence of inventory evaluation of affected persons at that time.
- Public awareness raising activities regarding the resettlement or the displacement perspectives, its importance, rights and responsibilities of the affected persons and the company, participation of the local community must be carried out in order to enable the affected persons to enjoy the rights.
- Cut-off date was not announced, therefore the possibility to define the criteria and properly determine the affected households and organizations, who are eligible for compensation and other support was not available. For instance, if such public

awareness raising activities were properly organized, persons affected by the economic displacement would not have been excluded.

- Coal has intensively been transported on the Gashuun Sukhait road, but this impact has not been considered at all. Although Oyu Tolgoi and Energy Resources companies have implemented certain resettlement actions along this road, the cumulative impact of the current coal transporting practice must be re-evaluated
- There are many business entities that are running small businesses such as car and tire repair, foodcourt service along the road up to Gashuun Sukhait and Eastern Tsankhi Mining “A” license area, some of them possess the land license but some do not. It is notable that ETT company is making all its effort in terms of resolving any land dispute or land use issues related with these business entities and other organizations. It is also clear that more land possessed by the individuals and business entities will be affected by the necessary resettlement as much as the company operation expands, thus resettlement action plan needs to be organized meeting international standard requirements.
- Former mining workers’ village or currently known as Tsagaan-Ovoo Bagh has over 100 households and it is obvious that these people will be impacted by the mining tailings, particularly by the dust since 2015. Therefore, other options for impact mitigation (consider other locations for the mining tailings) needs to be studied and if it is inevitable, people shall be included in the resettlement action plan.

Regarding resettlement consultation, compensation, monitoring-evaluation, livelihood support measures and the grievance mechanism

- There are a very limited information regarding any consultation events on resettlement. On the one hand, it is due to the absence of sustainable team in charge of resettlement, lack of knowledge of people who were handling resettlement and the lack of information linkage and continuity; on the other hand, due to insufficient or limited consultation events.
- Documentation and evidence gathering of the resettlement consultation and compensation was insufficient and the content does not meet with international standards.
- The company chose one package of compensation and mainly forced the package to the affected persons, therefore affected persons’ right to freely choose from various options was limited.
- Committed compensation package was not fully provided, implementation of the compensation was not monitored, and the livelihood support measures were not planned and implemented.
- Sustainable grievance mechanism regarding the resettlement or displacement is absent.

2.12 Issues and Remedial Action Plan

Addressing all the issued raised above in a timely and adequate manner is essential for raising the ETT image and ensuring smooth development of mine expansion, safety management and prevention of future land use conflicts. This section discusses key dimensions of remedial RAP.

Policies to be applied in developing RRAP:

- The acquisition of land and other assets and displacement of persons will be minimized as much as possible by ETT.
- Only all other options for avoiding displacement are exhausted resettlement and compensation of mine-affected individuals will be carried out in compliance with the Mongolian legislation and the WB OP 4.12;
- Where Mongolian legal requirements are less favourable to affected people than WB OP 4.12's requirements, the international standards shall prevail;
- All affected people residing or grazing land in the mine areas as of cut-off date are entitled to compensation and livelihood restoration measures sufficient to assist them to restore and improve their pre-resettlement and compensation living standards, income earning capacity and/or livestock production levels.
- Winter/spring camps and permanently-used summer-autumn pastures are the basis for inclusion in impact zones as households have legal entitlement to them.
- Lack of legal documentation will not bar affected people from entitlement to such measures.
- The overall negative impacts of ETT mining on pasture supply are addressed through pastureland management and other support programs for all herders in the *soum*
- Ensure inclusive participation and consultation through promotion of gender equality and inclusion of vulnerable individuals/households¹⁸

Primary stakeholders:

The following stakeholders are primary groups needed for consultations, and individual and group stakeholders in the Tsogtsetsii *soum* include:

- local community members/residents,
- community-level authorities (*soum* citizens' representative khural, *soum* governor and deputy governor, bag leaders, etc.),
- local community-based organizations and associations,
- local SMEs,
- religious institutions, and
- public service providers (health clinics, schools, museum, etc.).

The company must collaborate closely with these stakeholder groups, and the relevant decisions and consultations are to be made jointly, and information is to be communicated to

¹⁸ Vulnerable groups include people who, by virtue of gender, ethnicity, age, physical or mental disability, economic disadvantage or social status may be more adversely affected by displacement than others and who may be limited in their ability to claim or take advantage of resettlement assistance and related development benefits.

the communities both through these groups and the company. All resettlement related activities including for physical and compensation activities, and their overall process is to be guided by RAP. The RAP needs to incorporate advice from professional firms and experts where needed. Any issues raised during meetings, consultations, visits or other public community events need to be documented or verified in the form of any documents.

Where it has not been possible to avoid physical and economic displacement impacts, ETT is committed to the application of compensation for the affected parties.

Compensation and Entitlements

The acquisition of land and other assets and resettlement of persons as a result of the ETC Project will be minimised as much as possible by ETT. The key principles committed to by ETT for managing physical and economic displacement and providing compensation and livelihood restoration assistance in this Resettlement Action Plan are as follows:

- *ETT will follow all applicable requirements* for resettlement and compensation of Project affected persons in compliance with applicable Mongolian laws and WB OP 4.12. Where Mongolian legal requirements are less favourable to affected people than OP 4.12 requirements, the latter shall apply. ETT shall ensure that compliance with OP 4.12 requirements is reached. ETT will use its best endeavors to reach compliance with OP 4.12 in situations where certain steps of the land acquisition process may need to be implemented by the Government of Mongolia;
- *both physical and economic displacement are addressed*, and impacts from permanent and temporary land acquisition on assets and livelihoods will be mitigated for both physical and economic displacement;
- *all people residing or using land in the Project affected areas (“impact zones”) are entitled to compensation and livelihood restoration*, measures sufficient to assist them to improve or at least restore their pre-Project standards of living;
- *livelihood restoration is a priority*. It is the intention of ETT that affected livelihoods will be improved or at least restored for any persons displaced by the Project;
- *compensation will be delivered directly to affected herder households or individuals*;
- *affected households (and communities) will be offered land-based livelihood restoration assistance* (e.g. a Pastureland Management Programme). Affected herder households and communities will be offered assistance to ensure that they can maintain their standard of living from herding livestock if they choose
- *ETT will assist affected households in restoring their affected livelihoods*, and will closely monitor livelihood restoration and provide transitional assistance as necessary if it is observed that livelihoods are not restored to their previous or improved levels;
- *Temporary and permanent disruptions to herding activities will be compensated* for by ETT, including nuisance caused by dust and noise and loss of amenity during construction activities, as these activities have been identified to disrupt herding practices and potentially result in economic loss to herders;
- *Land acquisition and resettlement implementation and outcomes will be monitored and evaluated* as part of a transparent process involving affected families, *soum* authorities and independent parties;
- *A community grievance mechanism will be implemented* and available to affected households (and other local residents) and will be independently audited at regular intervals; and
- *Affected persons and communities will be engaged, informed and consulted* during

the whole course of resettlement and livelihood restoration planning, implementation and evaluation.

Eligibility

Project affected persons / households / communities are eligible under this RRAP if they have residential structures, other assets (e.g. wells) and/or traditional usage rights to grazing land in the Project affected areas at the time of the specified Cut-Off Date.

Eligible Project affected persons include:

- those who have formal legal rights to land or other assets in the impact zones
- those who do not have formal legal rights to land or other assets but have a claim to legal rights based upon the laws of Mongolia, upon the possession of documents such as land certificates or upon permission of local authorities to occupy or use the affected land; and
- those who have recognisable traditional claim to the grazing land they are using as identified by local authorities and by community consensus

Persons who encroach on the affected areas/impact zones after the Cut-Off Dates are not entitled to compensation or other forms of resettlement or livelihood restoration assistance.

Entitlements

The ETT Entitlements Matrix describes eligibility and compensation principles for each agreed impact zone and the associated category of affected herders.

Cut-Off Dates

As ETT has not implemented the Cut-Off Date the date of commencing the earth excavation as of 1 August 2010 can be used as retrospective cut-off date. However this needs to be decided in consultation with other stakeholders, especially local governments and impacted persons. No persons occupying the land for grazing or other purposes after this date are eligible for compensation, livelihood restoration assistance or other measures.

Compensation for Future Displacement

It is likely that the future ETT mining expansion and its associated infrastructure may cause physical or economic displacement to residents in the Project’s Area of Influence. These issues are discussed in a separate RPF.

RAP’s key stages, principles and participants are shown in Table 2.12.1.

Table 2.12.1 RAP’s key stages, principles and participants

Stages	Actions
1. Disclose information regarding resettlement	Mine development/expansion plan, resettlement necessity, cut-off date, eligibility, etc are communicated to the communities (bag meeting, posters, radio, TV programs,

	newsletter, etc.)
2. Identify impact zones	Identification of the mine footprint based on the company long-term plan; description of expected impacts and locations. Mapping tailing facility location, impacted winter, spring shelters, pasture, wells, etc
3. Consult with local communities	Ensure that RAP is designed in participatory, transparent and consultative manner. RAP entitlements and other support shall be sustainable and enjoyed by all members of the household, particularly the women and the members of extended families.
4. Identify affected households	Consultation with local authorities and joint visits to affected households
5. Identify location of affected households	Identification location of winter, spring shelters, wells location using GPS
6. Survey / register of all affected households	Listing of all family members and their basic data, and verification by the <i>soum</i> level Working Group
7. Define economic capacity of affected households	Valuation of assests by professional valuator
8. Establish <i>soum</i> level Resettlement Working Group (WG)	Establishment of the Working Group (WG) with the terms of reference to discuss all issues related to the resettlement, review the herder’s complaints, and provide overall guidance to the process. The WG consists of representatives of affected communities, bag governors, NGOs and ETT. It is headed by the <i>soum</i> deputy governor.
9. Involve third party, independent experts	Involvement of an independent lawyer, pasture experts to “protect herders rights” on request from <i>soum</i> administration, working group and communities. Discussion and application of their recommendations by the WG and reflection in designing entitlement packages. Ensure oversight of independent international, national and local experts in all stages of implementation. Accounting for differences between old and new pastures for displaced herders shall be undertaken as a part of this activity or as soon as displaced herders get new pastures (See Annex 12.1 for details)
10. Discuss possible options with affected households	Multiple visits to households by the company community relations officers and discussions about options for entitlement packages
11. Finalize the entitlement options	Preparation of entitlement packages and list of eligible affected households, and discussions with households.
12. Endorse by WG decision	Endorsement of list of affected households and their entitlement packages by WG
13. Prepare draft of Resettlement Agreement	Drafting the Resettlement Agreement with involvement of affected individuals, lawyer, and other independent experts, discussion and finalization by WG
14. Consult, negotiate and sign of agreement with	Disclosure of the draft agreement to affected individuals and households. Commencement of visit each affected

affected households	household to reach agreement on the terms of their resettlement agreement.
14. Execute all entitlements	Execution of the Resettlement Agreement provisions. Post-resettlement valuation of assets by professional valuator.
15. Monitoring and Evaluation	Maintaining monitoring and evaluation based on agreement provisions and other agreed schedules

The capacity of local authorities, communities, including affected individuals and the company to implement the above stages is inadequate. Therefore, targeted measures for training are needed to ensure that each element and stages of Resettlement process is in accordance with Mongolian legislation, international standards and other requirements (training, study tours, exchange of views, etc).

In order to ensure sustainable livelihood of *soum* herders the Resettlement Agreement actions need to be supplemented by other livelihood restoration and community development programs and projects, and preference shall be given to the affected individuals. The monitoring and evaluation of the resettlement actions shall be conducted regularly, and aligned with overall oversight of other actions. In long run, even the Resettlement Agreement expires the affected households will remain engaged and involved in various development activities. These activities will be a part of Cooperation Agreement to be signed with local authorities in accordance with The Minerals Law of Mongolia, item 42. This will serve as one of mechanisms to minimize the dependency of local communities on mine over long term.

Upon endorsement of the RAP by the *soum* level Working Group the following resettlement related information will be disclosed to the community members:

1. Briefing on resettlement and compensation
2. Basic terms
 1. Cut-off date
 2. Impact type
 3. Eligibility
 4. Information disclosure, consultation
3. Major stages
4. Entitlement package options
5. Grievance Management Procedures

Resettlement Management System and Monitoring shall be applied as described in section 2.9.

Any complaint related to the resettlement process is addressed according to the company Grievance Management Procedures (section 2.10). Depending on nature of the complaint the investigation team can be expanded to other departments and experts. The community complaints tend to be focused on exclusion from the compensation, inadequacy in identifying and valuating the impact, insufficiency of provided entitlements, loss of related personal documents, etc. So this diversity of issues require broad involvement of subject-matter experts (environment, finance, stakeholder engagement, etc.) and legal opinions. On other hand any decision related to resettlement is discussed and endorsed by the *soum* level Working Group so complaints shall be reviewed and if needed resolved at this Working Group as well. The Working Group members serve as mediators if needed.

RAP implementation schedule is shown in Table 2.12.2 The actions start with ETT's capacity building for resettlement which is essential for undertaking the following steps successfully. The capacity building includes establishing formal structure in charge of resettlement as discussed in section 2.3 and getting acquainted with the existing best practices like those of Oyu Tolgoi. It is envisaged that RAP can be implemented for the period of 2 years as a minimum. The key is ETT's commitment and resource mobilization to take actions according to the proposed plan.

Table 2.12.2 RRAP implementation schedule

No	Activities	Responsibility	Year 1				Year 2			
			I	II	III	IV	I	II	III	IV
1	ETT Resettlement capacity building									
1.1	Study of international and national best practices on resettlement	ETT								
1.2	Establish formal structure and staff members	ETT								
1.3	Establish Working Groups in cooperation with local government	ETT OH3 Citizens								
1.4	Develop resettlement policies and procedures	ETT								
1.5	Consultation on resettlement policies and procedures	ETT								
1.5	Adopt resettlement policies and procedures	ETT								
1.6	Place adopted policies and procedures on the company website	ETT								
2	Impact zone identification and consultation									
2.1	Prepare awareness-building materials on the key resettlement concepts and benefits, rights and responsibilities of the affected persons and the company, participation of the local community, cut-off dates, entitlements, eligibility etc.	ETT								
2.2	Prepare awareness-building material on impact-zone and its rationale	ETT								
2.3	Organize consultation on impact zones	ETT LG								
3	Cut-off dates									
3.1	Organize census of impacted population and its asset	ETT LG								
3.2	Announce cut-off dates	ETT LG								
4	Resettlement entitlement packages									
4.1	Develop compensation and livelihood restoration measures with several options	ETT								
4.2	Prepare awareness-building material on packages	ETT								
4.3	Organize consultations on entitlements with impacted people	ETT LG								
4.4	Establish tripartite resettlement agreements upon the agreement with impacted people	ETT LG								

	(impacted people, local government, company)										
5	Monitoring and evaluation										
5.1	Exercise M&E on a quarterly basis	ETT									
5.2	Plan and implement response measures based M&E findings	ETT									
6	Grievance redressing										
6.1	Operate transparent and accountable grievance redress system	ETT LG									

ETT – Erdenes Tavan Tolgoi Company

LG- Local Government

East Tsankhi entitlement matrix is shown in Table 2.12.3.

Table 2.12.3 East Tsankhi entitlement matrix

Type of Displacement Impact / Loss	Impact Source & Category	Eligibility Conditions	Entitlements
Physical displacement	East Tsankhi mining licensed area and 5 km impact zone – Impact Category A	Agreed winter/spring camps in impact area	<p>Resettlement package:</p> <ul style="list-style-type: none"> ▪ New winter/spring shelter, fencing, possession certificate ▪ Transportation support ▪ New well ▪ Accounting for differences between old and new pastures: Based on loss size cash or education support (See Annex 12.1 for details) <p>Livelihood restoration package:</p> <ul style="list-style-type: none"> ▪ Pastureland management, business development support programs
Economic displacement (loss of summer pastures)	<p>East Tsankhi mining licensed area and 5 km impact zone – Impact Category A - Impact Category B</p> <p>TT-GS road 500 m intensive impact zone - Impact Category C</p>	<p>Agreed permanently used summer-autumn pastures in impact area</p> <p>Agreed winter/spring camps in impact area</p>	<p>Resettlement package:</p> <ul style="list-style-type: none"> ▪ Accounting for differences between old and new pastures: Based on loss size cash or education support (study fee, equipment support) <p>Livelihood restoration package:</p> <ul style="list-style-type: none"> ▪ Pastureland management, business development support programs ▪ Short-term training (1 time, short term up to 45 days in Mongolia)
Pasture restricted	TT-GS road 5 km impact zone - Impact Category D	Agreed winter/spring camps in impact area	<p>Livelihood restoration package:</p> <ul style="list-style-type: none"> ▪ Pastureland management, business development support programs ▪ Short-term training (1 time, short term up to 45 days in Mongolia)

Type of Displacement Impact / Loss	Impact Source & Category	Eligibility Conditions	Entitlements
Increased pressure on pastures	Tsogttsetsii <i>soum</i> herder community pastureland loss of 21243 ha- Impact Category E	All herders in Tsogttsetsii <i>soum</i>	<u>Pastureland management programme:</u> Includes mechanisms on regulating stocking densities, establishing Livestock Risk Management Funds and accessing its benefits

Entitlements based on matrix in table 2.12.3 are shown in Table 2.12.4. It is worth noting that figures in this table are tentative and have to be reviewed according to the steps and procedures described in Table 2.12.2.

Table 2.12.4 Proposed entitlements

Impact Source & Category	Households	Actions on previous benefits	New benefits and support measures	Implementation Schedule
East Tsankhi mining licensed area and 5 km impact zone – Impact Category A	2 households	G.Damchii: Improve well capacity to match the old one or dig new well – MNT 20 m O.Erdenebileg: New well – MNT 30 m	<u>Resettlement package:</u> Accounting for differences between old and new pastures– MNT 5 m Accounting for differences between old and new pastures– MNT 5 m <u>Livelihood restoration package:</u> Pastureland management, business development support programs – MNT 5 m per HH total of MNT 10 m	Quarter 1 Year 2 Quarter 1 Year 2
East Tsankhi mining licensed area and 5 km impact zone – Impact Category A - Impact Category B	17 households	No	<u>Resettlement package:</u> Accounting for differences between old and new pastures– MNT 3 m per HH total of MNT 51 m <u>Livelihood restoration package:</u> Pastureland management, business development support programs – MNT 2 m per HH total of MNT 34	Quarter 1 Year 2 Quarter 1 Year 2

TT-GS road 500 m intensive impact zone - Impact Category C	Due to dust and noise impacts most HH already out-migrated and some HH have received compensation from OT and ER		m Short-term training (1 time, short term up to 45 days in Mongolia)– MNT 1m per HH total of MNT 17 m Re-assessment of potential impacts along the road and cooperation with OT, ER and others	
TT-GS road 5 km impact zone - Impact Category D	Many HHs already out-migrated and some HHs have received compensation from OT and ER.		Re-assessment of potential impacts along the road and cooperation with OT, ER and others	Quarter 1 Year 2
Tsogttsetsii <i>soum</i> herder community pastureland loss of 21243 ha - Impact Category E	All herders in Tsogttsetsii <i>soum</i>		Pastureland management programme– MNT 300 m	Quarter 1 Year 2

A tentative budget and its allocations across 2 year-period is shown in Table 2.12.5. The same as the figures in Table 2.12.4 the figures are tentative and need to be reviewed and finalized by ETT in consultation with other stakeholders.

Table 2.12.5 Tentative Budget, m MNT

No	Cost items	Responsi- bility	Year 1				Year 2			
			I	II	III	IV	I	II	III	IV
1	ETT Resettlement capacity building									
1.1	Study of international and national best practices on resettlement	ETT	15							
1.2	Establish formal structure and staff members	ETT		50	50	50	50	50	50	50
1.3	Establish Working Groups in cooperation with local government	ETT LG		1	1	1	1	1	1	1
1.4	Develop resettlement policies and procedures	ETT		1	1					
1.5	Consultation on resettlement policies and	ETT			1					

	procedures									
2	Impact zone identification and consultation									
2.3	Organize consultation on impact zones	᠊ᠲᠲ ᠯᠭ				5				
3	Cut-off dates									
3.1	Organize census of impacted population and its asset	᠊ᠲᠲ ᠯᠭ				5				
3.2	Announce cut-off dates	᠊ᠲᠲ ᠯᠭ				3				
4	Resettlement entitlement packages									
4.1	Develop compensation and livelihood restoration measures with several options	᠊ᠲᠲ				20				
4.2	Prepare awareness-building material on packages	᠊ᠲᠲ				5				
4.3	Organize consultations on entitlements with impacted people	᠊ᠲᠲ ᠯᠭ				5				
4.4	Establish tripartite resettlement agreements upon the agreement with impacted people (impacted people, local government, company)	᠊ᠲᠲ ᠯᠭ					500			
	Total		15	52	53	76	69	551	51	51

The total budget is MNT 918 m.

Annex 12.1 Methodology to estimate compensation for lost pastures

Herders consider pasture losses from mining and infrastructure projects as key adverse impact on their livelihood.

The most tenable and documentable method of estimating this impact is to estimate changes in pasture supply. Changes in pasture supply depend on:

1. The size and duration of impacts on pasture:
 - 1.1 The size of impacted pasture. The more the size of unavailable pasture the greater the impact is.
 - 1.2 Duration of impact. The longer the duration of pasture unavailability the greater the impact is. Some pastures may be lost for good as result of overlapping with mining and building areas but some pastures may be lost temporarily due to dust and noise impacts during construction activities but become available partially or wholly after these activities end.
2. Difference between old and new pastures. Despite identical size of pastures they may differ in terms of productivity or grass yield, water supply etc. The less favorable new pasture compared to old pasture the more impacts is.

Methodology

1. Estimating compensation attributable to lost pastures size and duration

- 1.1 Identify pastureland use boundaries in participation of herders and neighbors and estimate the extent of impact on herders' pastureland:
 - 1.1.1 Assist impacted herders in drawing their land use boundaries on 1:100000 scale map taking into account for accesses by others to specific resources such as common use water sources (surface water and deep well) and salt licks.
 - 1.1.2 Facilitate consultation with neighbor herders on land use boundaries to reach agreement by signing no objection signature
 - 1.1.3 In cases of no agreement seek *bag* common meetings and *soum* land officer to resolve disputes and conflicts who also check for any overlaps with other uses such as soum and bag reserve pastures, mining licenses, wildlife routes, cultural sites etc. and endorses boundaries
 - 1.1.4 Calculate the impact rate based on the percentage of impact area within the total pasture land, and the duration of use. For example, with duration of 3 months, if 40% of the total pasture land is impacted pasture, the rate is 18.2% $(40\% \times 3 \text{ months}) / (40\% \times 3 \text{ months} + 60\% \times 9 \text{ months})$
- 1.2 Multiply the annual income of livestock husbandry by the impact rate to estimate the extent of impact in monetary value. For example, if the annual income of livestock husbandry is MNT 10 m, the monetary value of the impact is 18.2% of this amount or MNT 1.82 m. This amount can be considered as annual compensation.
- 1.3 Estimate the total amount of compensation by dividing the annual compensation by capitalized rate (herders most likely accept the interest rate of term deposits). For example, if the annual compensation is MNT 1.82 m, and the interest rate of deposits

is 12%, the compensation amount is MNT 15.17 m ($1.82/0.12=15.17$). If the pasture is permanently lost, the compensation amount is MNT 15.17 m. If the pasture is temporarily inaccessible but is restored later on, the monetary value of the impact is multiplied by the duration of the impact. For example, if the pasture was inaccessible but was restored wholly after 2 years, the compensation amount is MNT 3.64 m ($1.82 \times 2 = 3.64$).

1.4 Consult and agree with impacted herders on the proposed amount of compensation

2. Accounting for differences between old and new pastures

- 2.1 Estimate the total forage supply in old pastures by multiplying the area by grass yield. Grass yield data can be obtained from 1:100000 scale vegetation map in each *soum* provided by the Agency for Land Relations, Geodesy and Cartography and to be updated on a regular basis. It is calculated as a weighted average of grass yields for each vegetation type within impacted herders' land use boundaries by overlapping them with vegetation map that shows vegetation type boundaries and grass yields. For example, if a herder Dorj has 200 ha pastures and their average grass yield is 2 centner (c), then forage supply is 400 c ($200 \times 2 = 400$).
- 2.2 Land use boundaries of new pastures is identified following steps in 1.1.1-1.1.4.
- 2.3 Estimate the total forage supply in new pastures following 2.1. For example, if a herder Dorj's new pasture has of 200 ha and grass yield of 1.8 c, then forage supply is 324 c ($180 \times 1.8 = 324$).
- 2.4 Estimate the difference rate by dividing the old pasture's forage supply by the new pasture's forage supply. The rate more than 1 shows forage supply deterioration and the opposite shows the improvement. In case of herder Dorj it is equal to 1.23 ($400/324=1.23$) showing deterioration in forage supply.
- 2.5 Estimate compensation amendment rate by subtracting 1 from the difference rate and converting it into percentage term. In our example it is $(1.23-1) \times 100=23\%$
- 2.6 Estimate changes on compensation due to differences between old and new pastures by multiplying the relevant compensation by the amendment rate. For example, if herder Dorj permanently loses his pastures and gets no replacement then he is entitled to receive MNT 1.82m n=annually or MNT 15.17 m as lump sum. If he lost his pastures temporarily and gets new replacement pastures after 2 years, then he receives MNT 1.82 m annually for 2 years plus receives MNT 418.6 thousand annually due to differences forage supply ($1.82 \times 23%=0.4186$) or MNT 3.48 m as lump sum payment ($418.6 \text{ мянга} / 0.12 = 3.48 \text{ сая}$).
- 2.7 Water supply conditions between old and new pastures are estimated and if conditions are worse then, measures shall be taken to recover at the old or better conditions.