

**STRENGTHENING ENVIRONMENTAL GOVERNANCE IN
MONGOLIA (Project: MON/07/104)**

**INSTITUTIONAL STRUCTURES FOR
ENVIRONMENTAL MANAGEMENT IN
MONGOLIA**

**Philip Tortell, Adiyasuren Ts. Borjigdkhan,
and Erdenesaikhan Naidansuren, *Consultants***

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Philip Tortell

Consultant
Environmental Management Limited
P O Box 27 433, Wellington, NEW ZEALAND
Tel +64-4-384 4133, Fax +64-4-384 4022, Email <tortell@attglobal.net>



Adiyasuren Ts. Borjigdkhan

President
Environmental University "Eco Asia"
CPO Box 752, Ulaanbaatar, MONGOLIA
Tel +976-11-312 458, Fax +976-11-312 320, Email <adyats@yahoo.com>



Erdenesaikhan Naidansuren

Director
Environ LLC
R123, Bagatoruu-44, Government House #3, Ulaanbaatar, MONGOLIA
Tel +976-11-311 938, Fax =976-11-311 938, Email <erdene@environ.mn>

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ACRONYMS AND ABBREVIATIONS

ADB	Asian Development Bank
CBD	Convention on Biological Diversity
CBOs	Community Based Organizations
CCA	Common Country Assessment
CDM	Clean Development Mechanism
CITES	Convention on International Trade in Endangered Species of Fauna and Flora
CSOs	Civil Society Organizations
EA	Environmental Audit
EIA	Environmental Impact Assessment
EIMS	Environmental Information Management System
FAO	Food and Agriculture Organization
GEF	Global Environment Facility
GIS	Geographic Information System
ICC	Information and Computer Centre
ICT	Information and Communications Technology
IISD	International Institute for Sustainable Development
MNE	Ministry of Nature and Environment
MoFA	Ministry of Food and Agriculture
NCSA	National Capacity Self-Assessment
NEMA	National Emergency Management Authority
NGOs	Non-Government Organizations
NMTC	National Meteorological Telecommunication Centre
POPs	Persistent Organic Pollutants (Convention)
ProDoc	Project Document
PSMFA	Public Sector Management and Finance Act
SEA	Strategic Environmental Assessment
SoER	State of the Environment Report
SSIA	Specialized State Inspection Agency
ToRs	Terms of Reference
UNCCD	United Nations Convention to Combat Desertification
UNDAF	United Nations Development Assistance Framework
UNDP	United Nations Development Programme
UNECE	United Nations Economic Commission for Europe
UNEP	United Nations Environment Programme
UNFCCC	United Nations Framework Convention on Climate Change
USAID	United States Agency for International Development
WMO	World Meteorological Organization

EXECUTIVE SUMMARY

The Report starts with an examination of the situation and finds that the Mongolian climate is severe and the environment is fragile but Mongolians have been able to overcome these challenges through their low population density, their nomadic way of life, their reliance on low impact primary production and their lack of industrialization. However, in recent years, changes have taken place in the Mongolian way of life – population numbers have been increasing, many rural pastoralists have moved to the urban environment, and the almost total reliance on low impact primary production is now supplemented, and in some places displaced, by mining activity.

Reviews and studies have documented a steady decline in environmental quality ranging from rural pastures to urban atmosphere. Problems which have intensified and are now a matter of real concern, include:

- Land degradation/desertification/deforestation
- Loss of biological resources and key ecosystems
- Impacts of mining
- Solid and hazardous waste
- Urban air pollution
- Water quantity and quality

The Report then goes on to analyze the causes for these identified problems. One of the fundamental root causes of environmental problems and degradation in Mongolia is the lack of cohesion and lack of a unified approach towards environment within the Government system. Environment is seen as a “sectoral responsibility” rather than as an overarching responsibility of the entire Government system. The Government needs to lead with a strong policy statement of its intent to mainstream environment into its thinking, its planning, its decisions and its actions so as to safeguard environmental quality for the greater good of Mongolia and its citizens especially those disadvantaged by poverty. A new Government policy on environmental mainstreaming will need to be followed by directions on how it will be implemented in each Ministry and Government institution, and the whole initiative needs to be coordinated by the Parliamentary Standing Committee on Agriculture and Environment.

A key element of mainstreaming will be decentralization – the devolution of environmental responsibilities to the level at which they are being implemented, namely at the Local Government level. Decentralization has already taken place, in principle. However, in practice the situation is far from auspicious since there is a total mismatch between the environmental responsibilities assigned to Local Government at Aimag and Soum level and the human, financial and other resources that are available to them. Neither is there adequate support, advice and guidance from central level to ensure “quality control”.

Effective devolution to Local Government level will take a long time before it becomes fully effective and it will be necessary for MNE to continue to provide support and guidance for some time. In order to do this, MNE itself needs to be restructured and strengthened since there are clear indications that the existing Government structure and resources available for environmental protection and management are failing Mongolia. Institutions are weak, there is a lack of continuity and professionalism and career structures in environmental protection and management are absent in the Mongolian Civil Service.

Mainstreaming of environment as an overarching responsibility of all Ministries throughout the entire Mongolian Civil Service will require an Environmental Focal Point in each relevant ministry but this will not resolve the existing fragmentation. In order to address this as well as create a champion for environment, it is necessary to assign a coordination, advisory, support and reporting function to MNE after devolving its operational responsibilities to Local Government.

MNE is currently under staffed and under resourced; its mandate seems incomplete and its responsibilities curtailed; its capacity is weak at all levels and there seems to be no effort to train and keep good staff through career structures, good working conditions, leadership, feedback and incentives for excellence. It needs a corporate plan through which it will become accountable to the people of Mongolia.

MNE also needs a higher profile, enhanced credibility and enhanced capacity. As the lead environmental agency for Government, MNE should serve as the environment leader within Government, a primary source of environmental information and advice where other ministries can go for advice and support on environmental matters.

The MNE budget needs to reflect these and other new responsibilities assigned to it by Government policy and public expectations. MNE must not be required to rely on the income from permits, fines and penalties for funding its operations. This is dangerous especially in the case of income from fines and penalties which make it dependent on environmental crime for its financial resources and if the crime stops (which should be the ultimate aim), so does the income.

MNE should be assigned the responsibility to evaluate the environmental performance of Central Government Ministries and Local Government Aimags and Soums – a kind of “environmental performance monitoring” by MNE together with regular reporting. This reporting should be positive and constructive, identifying weaknesses so they can be strengthened rather than castigated. In other words this is not a control function, but a mutually beneficial partnership between the MNE and Central Government agencies and the Local Governments who are in the front line. The function, which could be carried out through a small team of Auditors or Monitors, is not intended to give MNE any powers over other Ministries or Local Government, it is simply an effort to recognize the strengths and weaknesses of the system so they can be acted upon. The role of MNE will not be that of a “policeman”; it will be more of a “teacher” advising, supporting and helping other Ministries to satisfy their environmental obligations under their new mandates which will arise out of mainstreaming. MNE will also monitor the state of the environment as the measure of the overall success of government investment in environmental protection and management. In fact, MNE will carry out compliance monitoring, performance monitoring, and ecosystem monitoring.

Monitoring generates information and this needs to be processed before it can become useful. This is done through an Environmental Information Management System (EIMS) which responds to clear objectives, involves the minimum and most simple measurements or observations, employs effective processing, analysis and interpretation and triggers pre-determined action.

Environmental management is not the task of Government acting alone – it must be a shared responsibility before it can be effective. In this respect, NGOs are doing an impressive job, complementing and supplementing the work of Central and Local Government. This is in spite of the fact that there is no formal mechanism to ensure the participation of NGOs and civil society in the protection of natural resources and the environment. One exception is the recent legal entity known as a community partnership or Nukhurlul which has had initial success with the assumed ownership of forests through the concept of community custodianship. But Mongolia needs to adopt a more robust legislation basis for involvement of the non-government sector, at community and private commercial levels, in a serious and meaningful way, modelled on the principles of the Aarhus Convention.

The following five recommendations emerged from the investigation:

- Mainstream environment into thinking and acting within government
- Enhance Local Government capacity to implement decentralization effectively
- Review the mandate and structure of MNE to strengthen it and give it an effective coordination role
- Consolidate the Environmental Information Management System
- Develop a mandatory public consultation and participation process

The above recommendations are inter-related and for best results they need to be considered as one portfolio and implemented in a cohesive way. This can be achieved by creating a National Environment Programme which would be reviewed every four years, or soon after each parliamentary election. The review of the National Environment Programme should take place at a National Environment Conference which will be a broad-based, inclusive event which starts with preparatory workshops in each Aimag. The first National Environment Conference should take place before the end of 2008 and consider the portfolio of recommendations arising from this report and seek consensus on their endorsement and/or refinement as a core of first tasks under the Environment Programme.

Each recommendation represents a cluster of components and these are discussed towards the end of the Report in an implementation strategy and presented against a tentative timeline stretching out to four years.

1 INTRODUCTION

1.1 The Environmental Governance project

The project on Strengthening Environmental Governance in Mongolia (MON/07/104), which is funded by the Netherlands Government and executed by the Ministry of Nature and Environment (MNE) with UNDP serving as the international implementing agency, fits under Outcome 3 of the United Nations Development Assistance Framework (UNDAF) for Mongolia which seeks to promote and practice “a holistic approach to environmentally sustainable development for improving the wellbeing of the rural and urban poor”.¹

In response to the UNDAF, the overarching goal of the project is to assist the Government of Mongolia to achieve its objective to “*Improve consistency of policies for protection, proper use and rehabilitation of natural wealth; make transparent and accessible information related to nature and the environment; and increase public participation and monitoring in the protection of nature*”.

According to the Project Document, the project will address environmental governance² issues by achieving three interrelated Outputs, namely:

- **Output 1:** Key environmental and fiscal legislation and policies are harmonized and policy gaps are addressed to facilitate sound environmental governance
- **Output 2:** Institutional mechanism to implement and monitor environmental policy at local and central level is strengthened
- **Output 3.** Environmental decision-making and monitoring improved through increased CSO involvement, public participation, public education, and information disclosure at all levels

This assignment arises from Output 2 of the project for which the key partners include Parliament, MNE, SSIA, Local Government, and civil society organizations (CSOs). It is one of four currently running or planned under the project. These are:

- Development of Environmental Institutions – this assignment
- Review of Environmental Legislation
- Review of Strategic Environmental Assessment
- Review of the obligations under the three Rio Conventions

1.2 This assignment

According to the Terms of Reference (available from UNDP and the Project Office), the objective of the assignment was to carry out an assessment of the existing structure of state environmental institutions that deal with policy implementation and law enforcement at central and local level. It also carried out an assessment of monitoring mechanisms which are used to measure performance and identify gaps.

This report, which is addressed to the Government, is the result of these assessments carried out by the team of three independent environmental consultants. It starts with a brief identification of the Mongolian environment, it then examines the policy and legal settings, and goes on to the assessment of the institutions which form the delivery mechanism for environmental protection and management. Finally, it assesses the system of monitoring through which the actions of institutions and citizens are measured and success or otherwise determined towards the original policy goals. It also creates a feedback loop of lessons and experience through which the legislation, procedures and institutions are continuously reviewed, strengthened, and made more efficient. The report concludes by recommending priority actions.

¹ United Nations Development Assistance Framework (UNDAF), 2007 – 2011. Ulaanbaatar, Mongolia. February 2006.

² Environmental governance is described as the sum of organizations, policy instruments, financing mechanisms, rules, procedures and norms that regulate the processes of environmental protection. (Adapted from *Global Environmental Governance: Reform Agenda*, IISD 2006).

2 THE EXISTING SITUATION

2.1 The Mongolian environment

2.1.1 Land, water and climate

Mongolia is a land-locked country situated between 42 and 52°N latitude and 88 and 120°E longitude, which covers an area of just over 1.5 million km² in North East Asia (larger than Great Britain, France, Germany and Italy combined). It is one of the largest land-locked countries.

The Mongolian environment is harsh. It experiences temperature extremes, the soils are poor, there is a short growing season, and rainfall is low. Its ecosystems are extremely fragile.

The Mongolian geo-physical environment is very varied and can be divided into six zones – desert, mountain, mountain taiga, mountain forest steppe, arid steppe and taiga. The northern part of the country is covered by forest and mountain ranges and the southern part by desert, desert steppe, and steppe areas with low mountains. The western part is dominated by the high snow-capped mountain belt of the Mongol Altai and Khangai mountainous regions, with their perpetual snow and glaciers and the eastern part by vast plains and wild heaths. About 81% of the country is higher than 1,000 metres above sea level and the average elevation is 1,580 m. The highest mountain is Tavan Bogd in Bayan Ulgii Aimag at 4,374 m and the lowest point is Khukh Nuur in the east at 560m.

The hydrological environment in Mongolia does not appear unfavourable overall. Mongolia is well endowed with surface and ground water resources. There are some 3,000 rivers in total with a combined length of 67,000 km. There are also over 3,000 large and small lakes, 6,900 springs, 190 glaciers and 250 mineral water springs. The water network is of a greater density in the north of the country where the Orkhon is one of the longest rivers at 1,124 km in length.

The Great Lakes Depression is a large semi-arid depression in the west and northwest of Mongolia bounded by the Altai, Khangai, and Tannu-Ola Mountains. It has an area over 100,000 km² and elevations ranging from 750 to 2000 metres and is named so because it contains six major Mongolian lakes Uvs Nuur, Khar-Uvs Nuur, Khyargas Nuur, Khar Nuur, Airag Nuur, and Dörgön Nuur, as well as a number of smaller ones. It also includes solonchaks and large sandy areas with a total area over 14,000 km². Northern parts are dominated by arid steppes while southern parts are semi-deserts and deserts. The major rivers are Khovd, Selenge, Kherlen, Zavkhan, and Tesiin. The Great Lakes Depression is a major freshwater basin of Mongolia and contains some of the important wetlands of Central Asia comprising a system of interconnected shallow lakes with wide reed belts within a generally desert steppe.

However, in spite of this positive picture overall, the distribution of water is not always auspicious and water quality is declining. Mongolian water resources are one of its most valuable assets and they require protection and management.

Mongolia has a severe climate. Annual precipitation is low, averaging 200-220 mm and ranging from 38.4 mm per year in the extreme south (Gobi desert region) to 389 mm per year in some areas in the north. Most precipitation occurs between June and August, and the driest months are usually from November to March. Droughts in spring and summer occur once in every five years in the Gobi region, and once in every ten years over most other parts of the country. Mongolia has an average of 3,000 hours of sunshine annually, which is well above the amount received by other countries in the same latitude.

Among the natural disasters that Mongolia is susceptible to, is the *zud* which is primarily the result of weather phenomena and one of the most devastating. Under *zud* conditions, livestock cannot graze and reach fodder and they die of starvation, often in their millions. The condition can be caused by a layer of ice formed after a warm thaw in winter, through a lack of snow in the waterless regions, through too much snow, or by the trampling and pugging of pasture in areas where there is

too high a stock density. The winters of 1999-2000 and 2001-2002 were the coldest and longest in living memory and zud conditions are thought to have destroyed around six million livestock.

Even without considering climate change, the severe climate in Mongolia will always be a crucial influencing factor in any attempts to protect and manage the environment.

2.1.2 Ecosystems and biodiversity

Mongolia's geographical position, size and topography have resulted in a range of ecological conditions and a unique assemblage of ecosystems. The country ranges from the super-arid deserts in the south to the comparatively moist taiga forests in the north and the wetlands of the Great Lakes Depression; from the rolling steppe grasslands in the east to the alpine terrain and glaciated peaks in the west. This varied terrain contains a wide array of ecotypes, many exhibiting unique characteristics found nowhere else on the globe. This unique, varied, and substantially undisturbed territory supports a wide diversity of living organisms, many of which are endemic to Mongolia. Each is valuable in its own right and for its contribution to the Mongolian way of life and the well-being of its citizens. Each is considered vulnerable and each merits protection and management.

Mongolia's fauna represents a mixture of species from the northern taiga of Siberia, the steppe, and the deserts of Central Asia. Fauna include 136 species of mammals, 436 birds, eight amphibians, 22 reptiles, 75 fish, and numerous invertebrates. Mongolia harbours some of the last remaining populations of a number of animal species and sub-species internationally recognized as threatened or endangered. These include the snow leopard, Argali sheep, wild ass, saiga antelope, ibex, Bactrian camel, rock ptarmigan, Altai snowcock, Gobi bear, musk deer, Przewalski's horse, Mongolian jerboa and white-naped crane.

Mongolia's diverse and distinctive vegetation includes an important part of Asia's plant life. More than 3,000 species of vascular plants, 927 lichens, 437 mosses, 875 fungi, and numerous algae have been recorded. Many other species, however, remain to be classified. Of those that have been classified, almost 150 are considered endemic and nearly 100 are relict species; and from another perspective, there are 845 species of medicinal plants, 68 species of soil-binding plants, and 120 species of important food plants. There are also over 100 plant species that are listed in the Mongolian *Red Book* as rare or endangered and these include the dwarf Siberian pine and the white gentian.

2.1.3 The global dimension

The health of Mongolia's natural ecosystems and populations of wild species is of both national and global importance. The country forms an important part of the global ecosystem in the ecological transition zone in Central Asia, where the great Siberian taiga, the Central Asian steppe, the high Altai mountains, and the Gobi desert converge.

In recognition of its global responsibilities, Mongolia has acceded to a number of international environmental conventions and the key ones are shown in the following table.

Table 1. International environmental conventions signed by Mongolia

CONVENTION	YEAR OF ACCESSION
Convention on Biological Diversity (CBD)	1993
UN Framework Convention on Climate Change (UNFCCC)	1994
Kyoto Protocol	1999
UN Convention on Combating Desertification (UNCCD)	1996
Convention on the Protection of Wetlands of International Importance (Ramsar)	1998

Vienna Convention for the Protection of the Ozone Layer	1996
Montreal Protocol (regulating substances that deplete the ozone layer)	1996
Convention on International Trade in Endangered Species of Fauna and Flora (CITES)	1996
Convention on the Transboundary Movement of Hazardous Waste (Basel)	1997
Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade	2000
Stockholm Convention on Persistent Organic Pollutants (POPs)	2004
World Heritage Convention	1990

Each of these conventions places obligations on signatory governments ranging from the provision of a legislative basis for implementation, to adherence to the requirements and conditions of each convention, to monitoring implementation performance on a regular basis, to reporting on a regular basis to the conference of parties.

A further indication of the global significance of the Mongolian environment is the fact that 11 sites in Mongolia have been declared as wetlands of international importance under the Ramsar Convention, making a total of almost 1.5 million hectares. The Mongolian Ramsar sites are as in the following table.

Table 2. Wetlands declared as protected under the Ramsar convention

WETLAND	PROVINCE (AIMAG)	SURFACE AREA (in ha)
Ayrag Nuur	Hovd Province	45,000
Har Us Nuur National Park	Hovd Province	321,360
Lake Achit and its surrounding wetlands	Bayan-Ulgii and Uvs Provinces	73,730
Lake Buir and its surrounding wetlands	Dornod Province	104,000
Lake Ganga and its surrounding wetlands	Sukhbaatar Province	3,280
Lake Uvs and its surrounding wetlands	Uvs Province	585,000
Lakes in the Khurkh-Khuiten Valley	Khentii Province	42,940
Mongol Daguur (Mongolian Dauria),	Dornod Province	210,000
Ogii Nuur	Arkhangai Province	2,510
Terhiyn Tsagaan Nuur	Arkhangai Province	6,110
Valley of Lakes (Boon Tsagaan Nuur, Taatsiin, Tsagaan Nuur, Adgiin Tsagaan Nuur, Orog Nuur)	Bayan-Khongor Province	45,600

There are also two World Heritage sites in Mongolia - Uvs Nuur Basin (declared in 2003) and Orkhon Valley Cultural Landscape (declared in 2004).

2.2 The political and socio-economic setting

2.2.1 Historical and traditional approach towards the environment

Environmental protection goes back a long way in Mongolia. In 1206, Chinggis Khaan's Ikh Zasag Law had a whole chapter on environmental protection - "It is forbidden to spill dairy products and other food stuff on the ground as well as to urinate on livestock fences. One who breaks these rules shall be subject to the death penalty", and, "If one made wild fire damage to the environment, he/she shall be subject to the death penalty along with all his/her family members". Khubilai Khan consolidated this law for the conservation of land, soil, water, forest and species; hunting and protection of forest and steppes from fire. Then, in the 16th century, Altan Khaan passed the Tsaaz bichig which addressed a number of conservation issues such as protection of pasture land from wildfire; proper use and conservation of hunting animals and their skins; controlling hunting of some fishes and birds; etc.

Fire has always been considered as one of the highest environmental threats and features in other legal instruments. For example in the 1700s the Khalkh Juram "Khalha's Code of Conduct" stated

that “Anyone is obliged to extinguish wild fire occurring in his/her migration area, and if that person does not take the required action, he/she shall be subject to a fine of a 3-year-old horse”.

The Socialist Development Phase between 1921 and 1989 saw the adoption of a number of laws and regulations controlling various aspects of the environment and the first Constitution of Mongolia, approved in 1924, declared that all land and other natural resources shall be wholly the property of the people. Other legal instruments included the Forest Law of 1931, the Law on Preparing Hay and Planting of 1933, the Law on Hunting and Fishing in 1933, and the Law on Land Use in 1942. These laws have been constantly updated and amended right up to the socio-economic transition period of the 1990s.

In the period of transition to a market economy, a new Constitution was adopted in 1992 which addressed a number of environmental issues; Mongolia signed up to 14 international environmental Conventions; and there are now over 30 laws covering the environment sector, 300 regulations and procedures and 180 standards, norms and normative documents, under 27 programmes which are being implemented.

2.2.2 The political system

Mongolia is a unitary state with a Central Government and three levels of Local Government. Currently, there are 21 Aimags with 329 Soums, and 1,544 Baghs. The Aimags are also clustered into four Regions which, together with Ulaanbaatar as the Capital make up five regional divisions. The capital city comprises nine Districts with 121 Horoos. According to the Constitution, the administrative and territorial units of Mongolia are organized on the basis of a combination of both self-governance and state administration. As a result, Mongolia has a dual system in which administrative and territorial units have both a governor and a local council.

Since the early 1990s, decentralization has been part of Mongolia’s political reform agenda. However, the process of decentralization in Mongolia has been centrally driven, implemented slowly, and is so far incomplete. Politically, citizens elect local parliaments, but governors are nominated by these parliaments and appointed by the next higher level of government. Administratively, Local Governments (Aimags and Soums) have some control over local personnel, but decisions over sectoral policy-making remain centralized.

Fiscally, Local Governments have some revenue raising powers but there is no coherent intergovernmental transfer system in place.

While reforms are frequently made, Mongolia lacks an integrated decentralization strategy. There is no national consensus on how to operationalize decentralization with concrete arrangements for the intergovernmental sharing of responsibilities for service delivery and financing.

Some recent reforms have reversed the decentralization process. In 2001, a reform to the General Taxation Law reduced local budgets significantly and the Consolidated Budget Law in 2002, mandated that personal income tax be centralized in the state budget. The Public Sector Management and Finance Law (PSMFA), which came into effect in 2003, has recentralized all expenditure responsibilities for social service delivery, including education and health, from local administrations to the line ministries’ portfolio. This law abolished the financing of activities for natural resources restoration at all levels from the natural resources user fees, which had been set up under the law on “financing environmental restoration and natural resources rehabilitation from the natural resource fees”. In consultations, local governors complained to the Team that the PSMFA law had stopped the progress that was taking place on environmental rehabilitation. As a result, there is increasing pressure from Local Governments to relax legislation that limits their autonomy.

Disparities between rural and urban areas are widening. Rural residents have less access to education, health care, safe drinking water, information, and other basic services. Rising rural-to-urban migration is another manifestation of the growing poverty and increasing vulnerability. At the same time, the capacity of Local Governments to provide quality social services is greatly limited by constrained financial resources and lack of technical capacity to satisfy responsibilities in an efficient and equitable manner. Local level accountability is weakened, on one hand, by the top-down appointment system of civil servants from the centre, and on the other hand, by lack of capacity among local citizens to enforce accountability.

Recognizing these shortcomings within the system of local governance, in November 2005, the Parliament of Mongolia established a Provisional Committee on Increasing Local Governments' Autonomy and Decentralization with the task to review major legislation that inhibits local independence, including PSMFA. The Provisional Committee has conducted a fair amount of background research and collected feedback from local administrations on the proposed amendments and has been facilitating a nation-wide consultation on the proposed reform agenda. As a first result, Parliament has approved amendments to the Law on Administrative and Territorial Units and their Governance in December 2006 and abolished the top-down appointment systems in relevant sectoral laws. Once further legal reforms are implemented, there will be an increasing need for capacity development of local administrations in order for them to assume the newly assigned functions.

2.2.3 The connection between environmental degradation and poverty

Biological resources play a critical role in Mongolia's economy, well-being, and traditions. For example, livestock grazing is crucial to the economy, as it comprises 70% of agricultural production and provides the basis for the textile industry. The environment is also the foundation of Mongolia's expanding tourist industry, attracting visitors from all over the world to experience Mongolia's unique landscapes.

However, grazing depends directly on healthy grasslands and clean water; and tourists are attracted by an environment as near pristine as possible. Unfortunately, the Mongolian environment is showing signs of serious deterioration and this is creating poverty conditions for an increasing number of rural Mongolians. Poverty and environmental degradation are inextricably linked – poverty leads to environmental deterioration and environmental deterioration leads to poverty.

Poverty is not just a lack of income. It also means a permanent state of vulnerability and a lack of access to resources. The poor have no choices, no rights, no freedoms, no nurturing environment and low quality of life. The poor are more concerned with obtaining their basic needs on a day to day basis from the dwindling natural resources, than with environmental protection and rehabilitation. They are forced by circumstances to over-utilize environmental resources, exceeding carrying capacities and capacities for self-renewal. This environmental degradation further reduces the already overexploited resources, leaving less and less for the poor themselves, until eventually there is a total collapse of environmental productivity. This pressure on natural resources such as pastures and rangelands, coupled with the impact of severe climate, has already created a serious situation in parts of Mongolia with dire consequences for some herders and communities.

The relationship between environment and poverty is therefore very strong and very direct. Protection and management of the environment alleviates poverty and enhances the quality of life especially of rural Mongolians.

2.2.4 Policy and Legislation

Mongolia has enacted a comprehensive policy and legal framework for environmental management. It has policies, legislation and strategies in place to manage the protected estate, to satisfy its international obligations and to protect the quality of the environment for the health and well-being of

its citizens. According to the ADB³ the hierarchy of policies and legislative provisions for environmental management in Mongolia comprises five layers ranging from the Constitution to international treaties, and to environment and resources protection laws.

Among the policy documents listed by the ADB, were: the National Environmental Action Plan of 1996, the State Environmental Policy of 1997, the National Plan of Action to Combat Desertification, the Biodiversity Conservation Action Plan, and the National Plan of Action for Protected Areas, all developed under MNE auspices, as well as the Mongolian Action Programme for the 21st Century with subordinated aimag development plans developed by the National Council for Sustainable Development. The National Environmental Action Plan was updated in 2000 and the National Action Plan for Climate Change was added in the same year. Several programme documents (e.g. National Water Programme, National Forestry Programme, Programme of Protection of Air, Environmental Education, Special Protected Areas, and Protection of Ozone Layer) were also completed at the turn of the decade.

In addition, other guidance documents with important environmental repercussions were developed under the auspices of other ministries and these include the Roads Master Plan, the Power Sector Master Plan, the Tourism Master Plan, and the Renewable Energy Master Plan. Other documents, such as the annual Human Development Reports have increasingly incorporated environmental aspects.

The legislation base is also extensive as evidenced by the following table of key environmental legislation based on NCSA⁴, and Hannam⁵.

Table 3. Key environmental laws of Mongolia

NAME OF LAW	YEAR ADOPTED
The Constitution of Mongolia	1992
Law on Environmental Protection	1995, revised in 2006 and 2008
Law of Land	Jun 2002
Law on Land Cadastre and Mapping	Dec 1999
Law on Land Fees	Apr 1997
Law on Land Possession	Jun 2002
Law on implementation of regulations related to Land Possession Law	Jun 2002
Law on Geodesy and Cartography	Oct 1997
Law on Special Protected Areas	Nov 1994
Law on Buffer Zones	Oct 1997
Law on Water	Apr 2004
Law on Water and Mineral Water Resource Fee	May 1995
Law on Forests	Mar 1995
Law on Fees for Timber and Fuelwood Harvesting	May 1995
Law on Prevention of Steppe and Forest Fires	May 1996
Law on Reinvestment of Natural Resource Use Fees for Conservation	Jan 2000
Law on Natural Plants	Apr 1995
Law on Natural Plant Use Fees	May 1995
Law on Protection of Plants	Mar 1996
Law on Hunting	2000, 2003
Law on Fauna	2000
Law on regulation of export and import of endangered species of flora and fauna	Nov 2002
Law on Hunting Reserve Use Payments and on Hunting and Trapping Authorization Fees	May 1995
Law on Underground Resources	Dec 1994
Law on Minerals	1997, revised in 2006
Petroleum Law	1991
Law on Air	Mar 1995

³ Asian Development Bank (2005) *Country Environmental Analysis – Mongolia*. Asian Development Bank, Manila.

⁴ Anon (undated draft) *National Capacity Self Assessment: Cross-Cutting Assessment Report*. NCSA Project carried out with support from GEF/UNEP.

⁵ Hannam, Ian (2008) *Preliminary Gap Analysis of Mongolian Environmental Laws and Policies*. Draft Report prepared for the MNE/UNDP/Netherlands Govt Project on Strengthening Environmental Governance in Mongolia.

Law on Hydrometeorology	Nov 1997
Law on Protection from Toxic Chemicals	Apr 1995
Law on Environmental Impact Assessment	1998, revised in 2002
Law on Tourism	1998
Law on Solid Waste	Nov 2003
Law on prohibiting export and transportation of Hazardous Waste	Nov 2000

There are 33 pieces of legislation in the above list and none are older than 13 years. As Hannam noted, *“The problem is not so much the lack of laws or policies - but a lack of capability to implement them”*. To this can be added the apparent lack of political will and corrupt practices which hinder the implementation of policies and legislation which are otherwise sound. These are discussed in the next section.

2.3 Institutional set-up for environmental management

2.3.1 Institutions at central level

2.3.1.1 General overview

Environment is not a sector, just like Finance and Foreign Affairs are not sectors. Neither is Environment a monopoly of any one ministry or department – it is a responsibility that must be shared by all Government agencies.

It is estimated that currently there are over 3,000 persons employed in the environment sector, but almost half of these are employed as observers at the meteorological and hydrological stations and units throughout Mongolia. Of the remainder, the majority work in the Protected Areas System either for MNE or for Local Government.

In fact human resources capacity is reported as weak throughout the Mongolian civil service and positions are often left vacant or filled inappropriately. Those fortunate enough to benefit from academic and other training at great expense, often face disappointment on their return because many specialists finish up in inappropriate placements – their capacity is not recognized.

Another negative feature of the Mongolian civil service that has an impact on capacity, is the change in deployment that takes place at all levels at each change of government. This is contrary to the Civil Service Law and contributes to a lack of continuity, misplacement of capacity, uncertainty and inefficiency.

Those considered as working in the “environment” field are found in MNE, SSIA and Local Government. However, there are at least 13 Central Government organizations involved in some way with environmental administration and management or whose activities have a significant bearing on the environment, and some of these do have one or more positions that can be considered as working in “environment”. The following table summarizes the spread of environmental implications among the Mongolian civil service, together with an indication of their functions and potential implications for the environment.

Table 4. Central Government organizations with implications for environment

MINISTRY OR OTHER AGENCY	FUNCTIONS							IMPLICATIONS FOR THE ENVIRONMENT
	POLICY	PLANNING	RESEARCH	ENFORCEMENT	MONITORING	CONTROL	OTHER	
Ministry of Nature and Environment	✓	✓	✓		✓		✓	The leading organization for environment – policy, coordination, advice, information
State Specialized Inspection Agency				✓	✓	✓		Expected positive impact – enforcement and control
Ministry of Food and Agriculture	✓	✓	✓					Dependent on policy – could be negative in terms of misuse of land, but in an excellent position to influence positive land use
Ministry of Construction and Urban Development	✓	✓				✓		Potential positive impact through land use planning and urban design. Other activities may have a negative impact
Ministry of Trade and Industry	✓					✓		Expected negative impact through mining activity. However, in good position to influence minimization and mitigation of impacts
Ministry of Fuel and Energy	✓					✓		Control of negative impacts arising from power generation and automotive fuel
Ministry of Justice and Home Affairs	✓						✓	Potential positive impact through the streamlining and strengthening of the legislative base and the provision of legal advice and support
National Statistical Office			✓		✓		✓	Potential positive impact through the provision of statistics and analysis of trends
Ministry of Education, Culture and Science							✓	Crucial position of influence with future generations
Ministry of Roads, Transportation and Tourism	✓				✓	✓		Roads and transport have the potential for major impacts (multi-tracking, etc). However, tourism could be the lever for environmental protection
Ministry of Health	✓				✓	✓		Expected ally in reducing environmental impacts which also impact on human health and well-being
National Emergency Management Agency		✓			✓			Expected ally in dealing with natural disasters and accelerating the healing process
Academy of Sciences			✓		✓		✓	Crucial potential ally for the provision of the technical and scientific basis for protective action

Each of the above 13 Central Government organizations has a role to play in the protection and management of the environment. However, Mongolian ministries and other agencies are established on a very strong sectoral and hierarchical approach with few if any mechanisms for coordination and less so, cooperation. The system is fragmented and instead of cooperation there is competition.

As NCSA observed, “Mongolia has a complex administrative structure that operates at many levels. The central Mongolian administration consists of ministries and departments charged with administering the legislation under their aegis, supervising its implementation, advising the government on proposed laws and decisions, providing information to the public on new legislation,

and educating their staff. In many cases the responsibilities of the Ministries are overlapping, but there is little cooperation between them”.

In addition, except for MNE, none of the above organizations have any environmental protection responsibilities as an explicit part of their mandate.

2.3.1.2 The Ministry of Nature and Environment (MNE)

The Ministry of Nature and Environment, which was established in 1987⁶, is the lead Government agency for environmental management in Mongolia with responsibilities spanning biodiversity, protected areas, forests, the environmental impact assessment process, water, etc. In its Mission Statement⁷, MNE says:

The mission of the Ministry of Nature and Environment is to direct the collective efforts and initiatives of the state, citizens, businesses and organizations in fulfilling the right to live in a healthy and safe environment, linking social and economic development with ecological balance, protecting the natural environment in the interests of present and future generations, and making appropriate use of natural resources and creating proper opportunities for their restoration.

While its medium-term goals are:

- Reduce air, water and soil contamination in urban areas
- Protect biodiversity by expanding the Special Protected Areas network
- Increase forest territory and reduce the pace of desertification by broadening the scope of afforestation and reforestation activities
- Increase the appropriate use and conservation of water resources
- Improve the quality of mine rehabilitation

The Mission of MNE is “to direct” others in “fulfilling their right”. This is seen as a centralized and top-down approach in contrast to a mission which could say “to coordinate, inform, support, assist” others “to live in harmony with natural ecological process on a sustainable basis”. It also conveys the feeling of a “militaristic” approach, not in keeping with the cooperative, participatory and inclusive approach which has been adopted by many countries for environmental protection and management. The Mission of MNE needs to be reviewed and its focus changed to convey the impression that MNE is a source of guidance and cooperation.

MNE’s Goals are also in need of review. The first Goal is seen as appropriate, however, there is no reason why the abatement of pollution should be restricted to urban areas. The second Goal needs qualification since biodiversity is not necessarily protected by expanding the Protected Areas Network. The third Goal perpetuates the misunderstanding that afforestation and reforestation are always desirable – they are not, since they are not always the most appropriate use of land. The fourth Goal is appropriate as long as the emphasis stays on conservation and wise use. The fifth Goal should not be the responsibility of MNE – Local Government should lead in this, supported by the Ministry of Trade and Industry. It could be argued that even if its mandate is not changed, the Mission and Goals of MNE should be reviewed and could be improved.

The central Head Office of MNE comprises four departments and four divisions and it has direct supervision for:

- National Agency of Water Authority
- National Agency for Meteorology, Hydrology and Environmental Monitoring
- Forest and Water Research Centre

⁶ The title of the organization was changed to State Committee for Environmental Control for a period of 2-3 years in the early 1990s

⁷ Ministry of Nature and Environment (undated) Information folder with publicity material.

Table 5 below indicates the Ministry's capacity. It is based on information from documents reviewed (especially NCSA⁸ and FAO⁹) and updated following consultations with MNE.

Table 5. Staff statistics for the Head Office of the Ministry of Nature and Environment (MNE)

DEPARTMENT OR DIVISION	HUMAN RESOURCES					
	Director (policy formulation)	Deputy Director and Senior Officers	Middle level Officers	Technical and Scientific	Other professionals (e.g. legal, IT, etc)	Staff serving National Committees
Administration and Management Department	1	2	4			
Strategic Planning & Sustainable Development Department	1	2	5			5
Environment and Natural Resources Department	1	3	5			7
Special Protected Area Administration Department	1	2				
Forest Policy and Coordination Division	1	3	3			6
Finance and Budget Division	1	1	2			
International Cooperation Division	1		4			
Monitoring and Evaluation Division	1	2	2		2	
Water Agency	1					
National Agency for Meteorology, Hydrology and Environmental Monitoring	1					
Forest and Water Research Centre	1					
TOTALS	11	15	25	-	2	18

The above structure seems extremely top heavy with almost 50% of staff being at the senior level. The sparse middle and junior levels in its structure, reflect MNE's lack of a career structure for its staff and this is of concern. Another worrying feature is the total absence of any technical or scientific positions even though the appointees include 11 doctorate degrees, 15 Master of Science degrees, 32 with a Bachelor degree or Diploma and one with a Technician certificate.

It seems that planners and policy analysts at MNE Head Office are all located in the Strategic Planning and Sustainable Development Department, rather than being in the relevant department or division. The Department has a Senior Officer in charge of Wildlife Resources Policy and Planning, an Officer in charge of Environmental Consolidated Planning, an Officer in charge of Environment Sector Policy and Strategic Planning, an Officer in charge of Clean Technology Policy and Standardizations, and a position entitled Officer in charge of Forestry and Water Policy.

In other departments and divisions, the Director is usually the policy analyst and policy maker and the remaining staff usually divide between them the remaining mandate of the department or division. There is no clear and formal division of responsibilities – work is distributed according to

⁸ Anon (undated) *National Capacity Self Assessment: Cross-Cutting Assessment Report*. NCSA Project carried out with support from GEF/UNEP.

⁹ FAO (2006) Project Document: *Capacity Building and Institutional Development for Participatory Natural Resources Management and Conservation in Forest Areas of Mongolia*. FAO/Government Cooperative Programme.

available personal experience and skills, very much on a subjective basis. This is not a very effective way of administering and managing a Ministry's staff resources.

Since its establishment 20 years ago, the MNE has been restructured five times, significantly hampering its sustainability and the careers of personnel. Between 2000 and 2005, 70% of staff, especially professionals, were changed and replaced by inexperienced staff and these changes have had grave repercussions on the performance of the Ministry. Many of the staff working in the Ministry have only had between one and four years experience and they lack the knowledge and skills necessary for policy analysis and similar tasks crucial to the overall performance of the Ministry and the implementation of the Government's environmental policies.

MNE staff are assessed twice a year in accordance with the procedures set by the Civil Service Council. However, the performance assessment is not used as intended for advancement and career development. This is because professionals are replaced without justification when the government changes.

Before 2001, the MNE also had responsibility for the Land Resources Authority and the Environment Protection Agency. The former has now been absorbed into the Agency of Land Affairs, Geodesy and Cartography, while the Environment Protection Agency duties were transferred to the SSIA (see following section) together with the 700 or so staff complement. Most rangers (formerly three per Soum) remained as employees of MNE and have been increasingly assigned to protected areas. However, according to the NCSA, "*there are locations outside protected areas (e.g. utilization zone forests) where MNE supervision is woefully inadequate*".

In addition to its Head Office responsibilities, MNE also has a presence at the Local Government level. However, the situation at this level is complex, legislation is overlapping and confusing and responsibilities for environment are entangled and complicated. Aimag and capital city specialized inspection agencies have environment and infrastructure inspection divisions, and Soum Governors' Offices have Environmental State Inspectors. Aimag specialised inspection agencies have 3-4 Environmental Inspectors and Soum specialized agencies have one Environmental Inspector each. The Aimag Specialized Inspection Units which come under the SSIA (see below), employ 379 Rangers and the Administrations of State Protected Areas have 211 Rangers.

At Local Government level, environmental inspection functions are shared by different agencies and there is poor interaction and cooperation between them. SSIA Environmental Inspection Divisions do not report back to MNE on the results of inspection, the achievement of inspection works, law breaches or their implementation status. The interaction and cooperation between the MNE and the SSIA are unsatisfactory and neither MNE nor SSIA is working together on the prevention of environmental law breaches with local authorities. While there is a legal requirement on paper to allow the participation of citizens and their representatives, there are no guidelines or mechanism to make it happen.

The view of MNE from other ministries, Local Government and civil society is that it is under-staffed and under-resourced. The Mongolian Nature Protection Coalition¹⁰ refers to MNE as a Ministry with "*small budget, big problems*" and notes that the annual budget allocated each year to MNE is the smallest of all ministry budgets.

2.3.1.3 Parliamentary Standing Committee on Agriculture and the Environment

The Mongolian Parliament has seven standing committees and the Standing Committee on Agriculture and Environment is one of them. The Committee has between 17 and 21 members. Strictly speaking, the Committee is not a Government institution, however, it has a major role to play in environmental protection and management through its overall objective to discuss and review

¹⁰ Bayarmaa, B (ed) (2008) *Mongolian Nature and Environment Assessment, Fall 2006 & Spring 2007 Parliamentary Sessions*. Mongolian Nature Protection Coalition. Ulaanbaatar.

draft laws and other draft resolutions of Parliament submitted by law drafters and make prior recommendations and conclusions. The Committee is also charged to make proposals to improve and strengthen state policy and parliamentary initiatives and to implement parliamentary control within its mandate.

The scope of the Committee is broad:

- Policy on crops, seeds, and food production
- Safety and control of food and agriculture products
- Rural development policy
- Regulation of grants and loans from international organizations and donor countries related with rural development policies
- Livestock policy
- Livestock insurance, protection of livestock health and its genetic funds
- Land and its mineral resources, forests, water, flora and fauna, atmosphere and other natural resources
- Protected areas, pasture and crop lands
- Environmental monitoring for geology, prospecting and mining of mineral resources
- Air pollution, toxic chemicals, environmental protection
- Radiation prevention, safety, meteorology and environmental monitoring
- Water policy, resources, and water pollution
- Solid waste, recycling
- Environmental policy
- Environmental research and development
- Hunting

With such a broad mandate and such a prominent position, the Committee is in an excellent position to influence environmental protection and management in Mongolia.

2.3.1.4 State Specialized Inspection Agency (SSIA)

The SSIA is responsible for implementing some 200 laws and other regulations, over 400 legal instruments in all. Its Department of Environment, Geology, Mining and Radiation Inspection is responsible for the implementation of around 30 environmental laws. However, it also enforces some 330 regulations, guidance, and other standards. This integrated inspection system has many advantages compared to the previous system, but it also has disadvantages.

The SSIA is at the forefront of implementation of environmental policies and laws in Mongolia. This control and enforcement function through an inspectorate, is usually what is often translated into the Mongolian language as “monitoring”. In fact, this is compliance monitoring and certainly not the only type of monitoring (see section 3.3.4 below).

The Department of Environment, Geology, Mining and Radiation Inspection is headed by a Director, and three senior officers provide professional guidance to the operational team and all inspectors working at various levels of the Government. Each of the senior officers is responsible for the enforcement of between six and seven environmental laws as well as national programmes and international conventions. Two middle level inspectors are in charge of water protection, flora and fauna law enforcement, EIA, and pollution control at national level and seven technical inspectors are working as an operational team within the Department to enforce the law in various hotspots in the country. With the current widespread use of toxic chemicals in mining areas, the team has a very heavy workload. Three senior officers are responsible for planning and policy making for the Department. Information, technical and other support services are provided centrally to all departments and there is no separate support staff for the environment Department. Inspectors are provided with an internet connection, however IT knowledge is weak. The budget is sufficient for salary and limited field trips only and does not meet all requirements.

The SSIA Head Office was restructured in March 2008 and its 330 staff were reduced to 80, with a reciprocal increase in field staff numbers. This restructuring benefited the Department of Environment, Geology, Mining and Radiation Inspection.

The NCSA reported that with the transfer of the Environment Protection Agency functions from the MNE to the SSIA, the latter inherited the bulk of field staff (former environmental inspectors) of which there was usually five per Aimag and one to two in each Soum, with a total of about 700 individuals. They are now integrated into the Aimag and Soum level Inspection Offices nationwide in an effort to decentralize.

The compact system of law enforcement (including environment, land management, etc) is seen by the SSIA as one of its strengths, and so is its vertical management system. Among its weaknesses, the SSIA lists the number of laws that it has to enforce (together with their gaps and inconsistencies) in view of its low technical capacity, facilities and equipment. The information network system is acknowledged as weak and there are difficulties retaining trained staff because of the poor working environment.

2.3.1.5 Ministry of Food and Agriculture (MoFA)

The sector serviced by the Ministry of Food and Agriculture (MoFA) is the greatest single user of natural resources in Mongolia. Some 85% of the land surface of Mongolia is suitable, in principle, for pasture and the livestock sector relies entirely on this resource. According to the MoFA website, its vision is to develop an intensified food and agricultural sector that is able to compete on domestic and international markets and overcome natural risks.

The following activities of MoFA have repercussions for natural resources:

- Combating animal epidemic diseases
- Dealing with rodents and other pests
- Plant protection
- Livestock water supply
- Crop irrigation
- Potable drinking water
- Agricultural land management
- Pasture management policy
- Crop land policy

The priorities listed in the Ministry's portfolio are the following:

1. Introducing an innovated modern management system and experiences, developing national technology, introducing scientific achievements and discoveries in production processes
2. Supporting different legal entities and private citizens in the food and agricultural sectors, enhancing their management efficiency and increasing their market competitiveness
3. Utilizing agricultural land appropriately, rehabilitating and increasing pasture capacity, extending irrigation activities and improving water point usage and ownership
4. Increasing the number of livestock and herd quality, protecting livestock genetic resources as well as protecting livestock from natural disasters, increasing export of food and raw materials of agricultural origin
5. Preventing livestock and animal parasitic diseases, improving treatment efficiency and reducing outbreaks and the spread of disease
6. Renovating the crop production machinery and techniques, introducing intensification, increasing food supply and ensuring food safety
7. Developing cooperatives and farms and providing multilateral support and assistance to established cooperatives for reducing poverty, creating employment and diversifying services
8. Increasing loan capacities in rural areas, supporting foreign investment, improving agricultural management and securing the vanguard of human resource

Unfortunately, the above list of priorities betrays a lack of appreciation for the vulnerability of Mongolia's pasture lands, the carrying capacity of land, the need for an ecological approach to agriculture and the wisdom of sustainable land management.

The Ministry does have a specialist position, which is in charge of fertilization and combating the Brandt's vole¹¹. This person covers environmental issues through the promotion of environmentally friendly fertilizers and environmentally harmless methods of controlling the Brandt's vole population in pasture.

2.3.1.6 Ministry of Construction and Urban Development

The Ministry of Construction and Urban Development does not have a direct link to environmental protection, however, the following of the Ministry's operations can have a significant influence on the environment and natural resources:

- urban water supply
- water sewage, waste water cleaning facilities
- land management
- lands for building and construction
- production of construction materials

Even more significant is the Ministry's Department of Land Affairs and Property Registration which is involved in land and land use policy and management. The Department has a staff of five including the director, which implement the Ministry's policies on land resource management, use and protection, land use planning, land valuation and use fees, land privatization and property registration. The Agency for Land Affairs, Geodesy and Cartography, is also under the Ministry and it implements land policy at national, Aimag and Soum levels.

2.3.1.7 Ministry of Industry and Trade

The overall Strategic Aims of the Ministry of Industry and Trade are:

1. To provide recommendations for the elaboration of strategic planning and policy for the Industrial and Trade sector development, as well as timely advice and all round support for the regulation and implementation of policies
2. To secure the vanguard of the Governmental leadership
3. To monitor and evaluate the implementation of the policy in the Industrial and Trade sector

And the priorities of the Ministry are:

1. Support national industrial development
2. Ameliorate employment through developing SMEs
3. Increase domestic production and exports
4. Support cluster based economic development
5. Support foreign trade and promote FDI through establishing wholesale networks, improving competitiveness of goods and services as well as ameliorating legal environment
6. Support international trade in services
7. Provide industrial competitiveness through innovation
8. Fulfil the obligations of the Government on the WTO agreements

The Ministry is also responsible for the Mineral Resources Authority and the Authority sets policy on mining and mineral resources which has major repercussions for the Mongolian environment.

¹¹ Brandt's Vole (*Lasiopodomys brandtii*) is a species of rodent in the Cricetidae family. It is found in China, Mongolia, and Russia. It is classified as a threatened species in the IUCN Red List in the category of "Lower Risk Least Concern".

The objectives of the Authority are:

- Provide services on issuing of licenses on mineral prospecting, exploitation and cadastre
- To support the Ministry of Trade and Industry in developing sectoral policy on geology and mining by providing various necessary information and implementation of the policy

The Authority has three officers who are responsible for environmental protection planning for mining, mining rehabilitation policy, environmental standards and regulations, and artisanal mining.

The Ministry has other responsibilities with a bearing on environment and natural resources. These include:

- The processing and production of raw materials derived from livestock
- Industrial processing and production of goods originating from wildlife
- Processing of products originating from plants
- Import and export of plants
- Processing of timber and wood products
- Import and export of timber and wood
- Bottling and production of spring and mineral water
- Mining and mineral resources policy

In the Ministry, there is a specialist position, which is in charge of environmental protection policy in mining sector.

2.3.1.8 Ministry of Fuel and Energy

In the Ministry of Fuel and Energy, the Department of Fuel Policy Regulation has five staff including the director and deputy director, and specialists on smokeless fuel policy development, gas-fuel policy and coal clean technology which could be considered as having responsibilities for environmental protection.

There is also the Department of Energy Policy Regulation with a director and two staff which could also be seen as responsible for environment. In addition, the Ministry is responsible for a Renewable Energy Centre which implements solar, hydro and wind energy policies at national level.

Although energy saving and energy efficiency are among the high priorities of environmental protection, neither are adequately addressed by this Ministry (or anywhere within the Government structure). There are no Central or Local Government policies on energy saving and efficiency and the issue is primarily handled by NGOs like the Mongolian Chamber of Commerce. It can also be seen to be addressed by some private sector companies through, for example, the importation of energy-saving home appliances and lamps.

2.3.1.9 Ministry of Health

The Ministry of Health is responsible for the formulation of public health policy and this is directly connected with environmental quality, especially with air, water and soil pollution in the urban environment. The Public Health Institute is an institution under the Ministry with responsibility for implementation and research on public health policy. There are also the following two specific areas where the Ministry's operations could have an impact on the environment:

- Medicinal plants processing and utilization
- Spring/Mineral water application policy

Within its Health Policy Regulation Department the Ministry has a specialist position which is in charge of environmental (public) health policy.

2.3.1.10 National Statistical Office

The National Statistical Office did not have any unit or staff dealing specifically with environmental data before the recent revision of the Law on Statistics in 2008. Under the new law, the National Statistical Office has been restructured into the National Statistical Committee and each Ministry is now obliged to establish a statistical unit for effective information flow and management within the Government sector. The ongoing restructuring will certainly assist with environmental data management and analysis for proper decision making.

2.3.1.11 National Emergency Management Authority (NEMA)

The National Emergency Management Authority (NEMA) is the agency responsible for the prevention, risk reduction and response to and recovery from the consequences of disasters such as flood, heavy snowfall, earthquake, forest and steppe fires, human and animal diseases and meteorological phenomena. NEMA gets meteorological data and forecasts from MNE before and during natural disaster occurrences such as sand and dust storms, zud and floods. But there is another relationship between MNE and NEMA – while MNE is responsible for the prevention of forest fires, NEMA has the responsibility for fighting fires once they occur.

2.3.1.12 Ministry of Road, Transportation and Tourism

The Ministry of Road, Transportation and Tourism has an obvious impact on the environment through its road building activities. However, it is also responsible for tourism development policy in protected areas and as such, is a major influence on the environmental quality of protected areas and its policies could come into conflict with those of MNE. It is also worth noting that in its promotion of tourism, the Ministry has a strong interest in environmental quality since this is one of the main attractions for tourists.

2.3.1.13 Academy of Sciences

The **Academy of Sciences** would seem to be an obvious partner to MNE in view of the latter's lack of any research capability. However, at the policy level there is a weak and unclear relationship between the two organizations. Among the operational research carried out by the Academy which could be very valuable for MNE's policy formulation and operations, is the following:

- Wildlife population, habitat, management and database on wildlife resources
- Plants science and database
- Forests science and database
- Water resources science and database
- Land resources and database

2.3.1.14 Conclusion on current institutional structure at central level

All the above Government organizations have implications for the environment and natural resources through their policies for resource use, their development operations, their research, or other activities. While some of them have staff positions with some environmental responsibilities, as far as can be ascertained, none of them have a requirement in their mandate or legislation to safeguard the environment, reduce impacts and ensure sustainability of natural resources. Apart from its working relationship with the National Statistical Office and with NEMA, MNE has no formal or informal arrangements with any of the institutions identified above.

As noted above, the system is fragmented and there is a dire need for coordination since “environment” is bigger than MNE and it needs to be seen as a shared responsibility right across the entire Mongolia Civil Service. Action is required on two fronts –

- Raise the profile of “environment” within the Mongolian Civil Service as a shared responsibility of all Ministries, Departments and other agencies, reflect this in each of their mandates, and mainstream “environment” into the thinking and operations of all.
- Identify MNE as the lead agency for environmental protection and management, with the credibility and capacity required to gain the trust of the rest of the Civil Service so it can provide the necessary coordination and quality control.

2.3.2 Institutions at local level (Aimag and Soum)

Local government and citizens’ *khural* have been given the responsibility for the implementation of laws and policies for natural resources management in their area. It has been estimated that more than 270 duties were allocated to Local Government through the decentralization of environmental legislation implementation. The most significant responsibilities of Aimags and Capital city Governors’ offices include forest resources protection, usage and ownership; land use, ownership and privatization; and mineral resources use and ownership.

This move to decentralize environmental protection and management to the Aimag and Soum levels is laudable in principle, but in practice it is quite a complex undertaking that still requires a lot of work. Local Government exponents lament the difficulties they face in satisfying their environmental management responsibilities. Their capacity is weak and their capability in some areas is totally non-existent (for example in doing justice to the technical aspects of an EIA). They are also frustrated in their efforts by the inequitable sharing of incomes derived locally for local resource use and permits. Rather than a reasonable budget allocation that reflects their responsibilities and operational requirements, they are forced to rely on fees and fines as a source of income. The situation is made worse by the fact that this potential source of income is reduced significantly by the reduction that takes place to contribute to the MNE Head Office budget. So, in spite of the wise move of responsibilities to the local level, Mongolia’s institutional framework for managing natural resources continues to be weak in the enforcement of regulations and procedures.

As the ADB reports¹², there is an *“imbalance between the assignment of implementation responsibilities and the allocation of budget resources. Most of the former and all work done at the (vast) field level, with the exception of protected area management, have largely been put at the door of local governments. Yet, local government budgets and existing assignment of revenue sources mean that implementation is seriously constrained, unless local budget resources are supplemented by development partner funding. In other words, the pattern of local environmental management continues to be unsustainable”*.

Consultations revealed that most of the rangers in rural areas have traditionally lacked the knowledge and specialized skills to effectively fulfil work requirements. In an effort to remedy this situation, the academic requirements for new rangers were increased in 2007 and a ranger must now have a bachelor degree in a relevant subject. To date however, 29% of rangers have only secondary school education and while 65% hold a diploma, it is not always one that is relevant to the position.

Employees of environmental and specialized inspection departments from eight Aimags, who were surveyed, had the following observations on environmental staff management issues:

¹² Asian Development Bank (2005) *Country Environmental Analysis – Mongolia*. Asian Development Bank, Manila.

- Frequent replacement of senior managers, lack of leadership by senior staff, unprofessional approach to staff management, and lack of knowledge, were the main barriers to effective human resource management
- Learning/professional development needs of staff were a high priority among employees
- Workplace atmosphere, relationship with colleagues, and an attractive work environment were cited as the most important next to wages
- Employees were very supportive of suggestions to involve NGOs and local communities in environmental quality monitoring and law enforcement

The Government policy to decentralize environmental responsibilities at operational level to Local Government has not worked as well as it should because there is inadequate capacity, lack of credibility, legal confusion and lack of resources. Financial resources in particular, must be provided from the central budget not from leftovers of fees and permits. The task facing Local Government is enormous and they must be provided with the means to carry it out successfully because the consequences of their failure to do so will be serious throughout Mongolian society.

A thorough study (gap analysis) is required to identify the environmental resources, their value and the threats faced in each Aimag. The gap analysis should then determine the capacity required to protect, manage and safeguard the resources. Capacity building to this extent is going to take time but a start needs to be made, first at Aimag level, and extended slowly to Soum levels as required and appropriate.

2.3.3 The role of the non-government civil society

The non-government sector, also referred to as civil society, has three main exponents – the NGOs which range from large international organizations to small local community level groups; the more loosely organized community groups (CBOs) and including the general public; and the private sector companies which can also range from large multi-nationals to smaller local companies.

According to a recent assessment on NGOs done by UNDP, some form of environmental NGOs have existed as early as the 1950s and in 1972 the People's Conference of the People's Republic of Mongolia "*Ardiin Ikh Hural*" discussed environmental issues and decided to establish a permanent committee on environmental conservation at the People's Presidium and all other levels of local Presidiums. It was also decided that the Government would provide support for founding environmental conservation associations and pioneer-students communities that would protect fauna and flora resources, improve conservation and wise use of natural resources, forests and species. These actions formed the first legal basis for the integration of conservation action by the Government and the public. Other conservation objectives were also adopted such as to protect forests, species and soil, and conserve strictly protected areas. This Conference was a historic milestone in conservation in Mongolia since it marked the beginning of citizens conservation movements as an expressed state policy. As a result, in 1974 the Mongolian Association for the Conservation of Nature and Environment was the first modern type environmental NGO to be established in Mongolia. However, the Law on NGOs was only passed in 1997 and this allowed the official registration of NGOs for the first time.

Unfortunately, even today, most NGOs lack the financial resources to operate independently from government or development agencies.

2.3.3.1 NGOs, CBOs and the general public

The work that many NGOs are doing is impressive and is complementing and supplementing what Central and Local Government are able to do. According to some estimates there are between 300 and 360 environmental NGOs in Mongolia, most are based in Ulaan Baatar but many operate at the community level. Mining, water quality and pasture management are their usual areas of focus.

Unfortunately, environmental NGOs in Mongolia, especially local ones are still not very mature and networking between them is still weak. This means that while they do good work on an individual basis, they do not benefit from the additional strength they could have if they worked together, supporting each other.

According to the Environmental Protection Law, NGOs in Mongolia have the possibility of assisting with state duties, but in practice the opportunities do not exist. NGOs cannot be involved in any policy formulation and decision-making processes related to the environment. There is no mechanism to ensure the participation of NGOs.

For example, when Central Government issues licences to local and foreign companies for the exploitation of natural resources (particularly mineral resources), local citizens and NGOs do not have any formal avenue to give their comments and opinions. Since land, forests, water and underground resources are vested in the State, it tends to act unilaterally and without consultation since there is no specific, unequivocal requirement to inform, let alone involve the public and citizens' groups. This is in spite of the rights granted by the Constitution of Mongolia which states, "*State power shall be vested in the people of Mongolia. The people shall exercise it through their direct participation in State affairs ...*". It is also in spite of the significant and serious interest displayed by the public and NGOs in the protection of natural resources and the environment.

Until recently informal Herder Groups have been used to mobilize communities. But a new amendment to the Law on Environmental Protection provides citizens with an opportunity to protect their homeland and use natural resources responsibly through the formation of a legal entity known as Nukhurlul (a community partnership)¹³. Likewise, a revision of the Law on Forests allows communities to assume ownership of forests and they are empowered with their protection, proper use and rehabilitation. As the Mongolian Nature Protection Coalition said, "*The concept of community custodianship of the forests is a positive step forward in the protection and management of forest resources*"¹⁴.

In an effort to uphold the Constitution and in harmony with the generally accepted modern principles of environmental management (see Aarhus Convention¹⁵), Mongolia needs to adopt a more inclusive and participatory approach to environmental management.

2.3.3.2 The private sector

The environmental track record of the private sector in Mongolia is not very good. Public and private industries are responsible for extensive environmental degradation and pollution. Industries and developers go through the initial stages of the EIA process, but they often fail to implement the necessary monitoring programmes and environmental protection plans. Neither is there any serious attempt at environmental management, internal environmental monitoring, environmental auditing or environmental reporting.

The mining industry is of particular concern because of its destructive impact on land. Mining sites are not restored as agreed and land and water are often polluted with toxic chemicals such as mercury and cyanide.

Other industries, such as some tanneries, discharge toxic chemicals such as chromium as well as dyes into water bodies. The power generation industry, which relies heavily on low-grade coal, discharges sulphurous and nitrous emissions, carbon dioxide and dust. These combine with the

¹³ Finch, Oyunchimeg Tseesuren (2008) Community Partnerships: A Mongolian Citizens Guide. Securing Our Future Programme of The Asia Foundation in Mongolia. Ulaanbaatar.

¹⁴ Bayarmaa, B (ed) (2008) *Mongolian Nature and Environment Assessment, Fall 2006 & Spring 2007 Parliamentary Sessions*. Mongolian Nature Protection Coalition. Ulaanbaatar.

¹⁵ The UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (known as the Aarhus Convention) grants the public rights regarding access to information, public participation and access to justice, in governmental decision-making processes on matters concerning the local, national and transboundary environment. It focuses on interactions between the public and public authorities. See <http://www.unece.org/env/pp/>

burning of fossil fuels in ger districts and vehicle emissions to create an increasing atmospheric pollution threat to the environment and human health.

It is interesting to note that in Mongolia the private sector is not only the cause of environmental concern, but, through some private consultancy companies, it also has an important role in attempting to reduce that concern and impact. The EIA Practitioners Association is working with MNE to develop and standardize EIA methodologies, some by adapting methodologies from other countries to suit the situation in Mongolia.

The practice of permitting private sector companies to carry out EIA investigations started in 1995 and there are now over 70 companies licensed to carry out this work. In addition to refining the appropriate legislation, the Government has attempted to build professional capacity through training and the quality of the assessments is improving, according to the Evaluation Commission of the MNE.

An account of the existing situation in Mongolia must regrettably mention the problem of corruption and while this permeates most levels of the Government system, the private sector is also implicated to a significant degree both as a party to corrupt practices as well as a victim. Opportunities for corruption presented themselves through the privatization of state-owned enterprises, the privatizing of public land and, more recently, the banking and mining sectors. As noted by Casals & Associates in their report to USAID¹⁶, the regulation of day-to-day operations of the mining industry is skewed by corruption, especially relative to environmental degradation and health and safety standards. Those mine operators that are properly registered and licensed are able to get around the rules and avoid enforcement actions through bribery or political ties. In addition, “ninja” or artisanal miners are believed to utilize the same tactics to avoid registration and licensing altogether and are often simply not regulated at all. Blatant violations of environmental laws in particular are evident in Mongolia’s mining regions, though it remains to be seen if this results from poor enforcement techniques and capability or outright corruption.

It is possible to conclude that the basic ingredients for corruption in Mongolia are a lack of transparency and lack of access to information. These are the same influences that are hindering the participation of NGOs, CBOs and the general public in environmental protection and management and obstructing the implementation of the Government’s environmental policies.

¹⁶ Casals & Associates Inc (2005) *Assessment of Corruption in Mongolia – Final Report*. USAID Contract No. DFD-I-00-03-00139-00

3 ANALYSIS AND DISCUSSION

3.1 Mongolia's dependence on its environment

The Mongolian climate is severe and the environment is fragile. Mongolians have been able to overcome these challenges through their low population density, their nomadic way of life, their reliance on low impact primary production and their lack of industrialization – they have been able to survive successfully for generations. Many changes have taken place in the Mongolian way of life in recent years, but the almost total reliance of Mongolians on the environment is still a fact today and for the foreseeable future. As one stakeholder said to the Team – *“the environment is paramount in Mongolia, without the Mongolian environment there is no Mongolian economy.”*

The Mongolian environment has been well studied and recorded. In particular, Mongolia's ecosystems and ecological resources have been well studied and are generally acknowledged as being fragile and extremely vulnerable to many forms of natural and human impacts. Many reviews have been undertaken and reports have been written on the condition of the environment in Mongolia in recent times (e.g. Mongolia's State of Environment Report¹⁷, the Country Environmental Analysis by ADB¹⁸, UNDP Ecological Vulnerability Study¹⁹, and others). While more work will always be beneficial, there are ample data and information on the environment and natural resources, as well as on their limitations, vulnerabilities and other characteristics. It can be concluded that the information base for effective environmental protection and management in Mongolia is adequate. The first foundation stone for a system of effective environmental protection and management is in place.

3.2 Problems faced by the environment

In recent years, changes have taken place in the Mongolian way of life – population numbers have been increasing, many rural pastoralists have moved to the urban environment, and the almost total reliance on low impact primary production is now supplemented, and in some places displaced, by mining activity.

The reviews and studies referred to above have documented a steady decline in environmental quality ranging from rural pastures to urban atmosphere. The Mongolian environment faces a number of problems and the salient ones are well known. In fact, they have not changed much in the past few years, but they have intensified and are now a matter of real concern. They include:

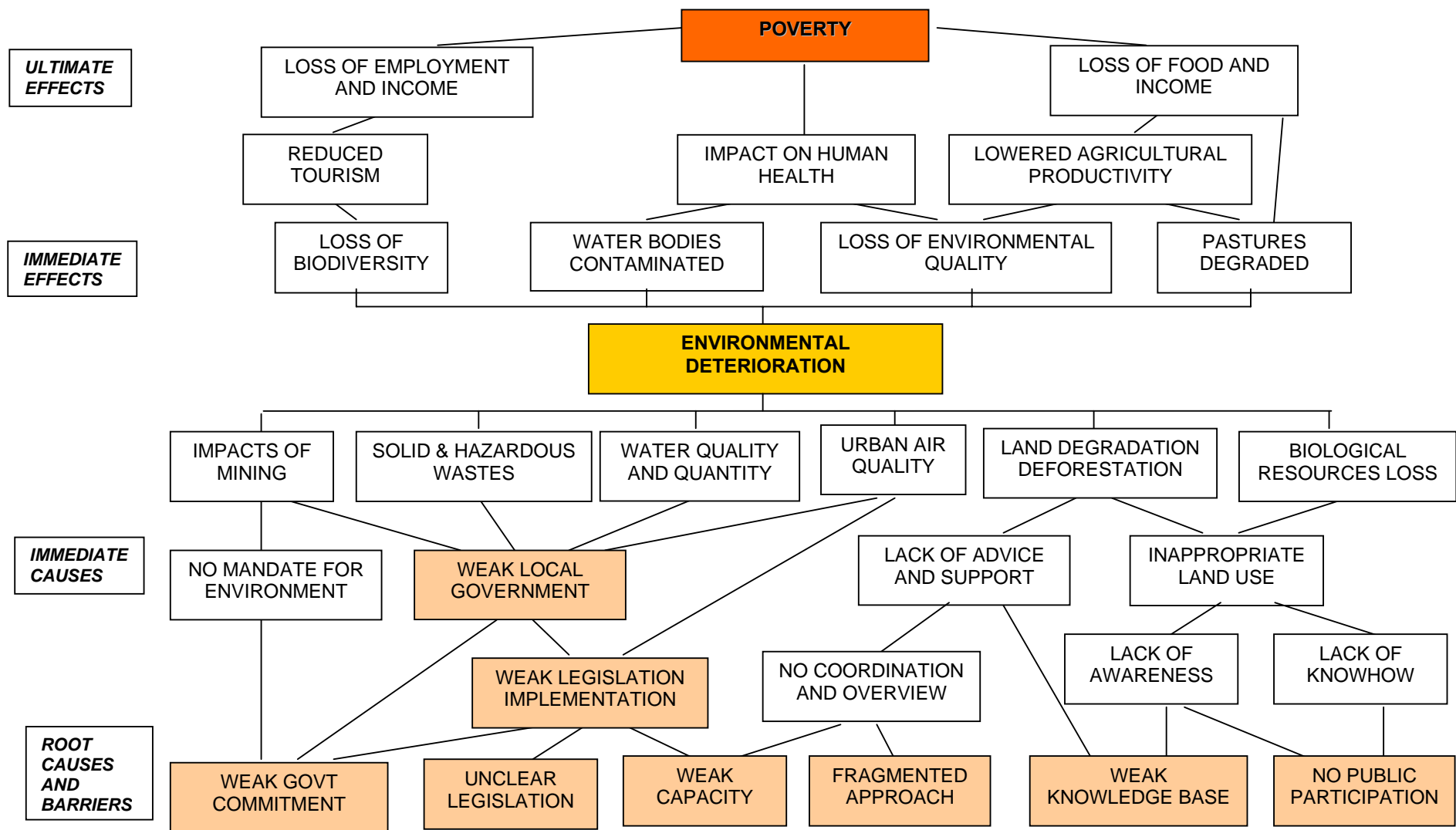
- Land degradation/desertification/deforestation
- Loss of biological resources and key ecosystems
- Impacts of mining
- Solid and hazardous waste
- Urban air pollution
- Water quantity and quality

The Government has recognized these serious problems and so have its donor partners. Many projects have been implemented to address one or more of these problems and while most have been successful in the short term, their results are often not long term because in seeking quick relief from the problem, they tend to address the result rather than the cause. But, addressing the causes is not always easy or straightforward because of root causes that mitigate against these projects' success. If the root causes can be removed, the solutions are more likely to survive on a sustainable basis.

¹⁷ Shrestha, Surendra, et al (2002) *Mongolia: State of the Environment Report*. United Nations Environment Programme (UNEP), Bangkok.

¹⁸ Asian Development Bank (2005) *Country Environmental Analysis – Mongolia*. Asian Development Bank, Manila.

¹⁹ Marriott, Peter and B Erdene-Ochir (2004) *Ecological Vulnerabilities and Human Security in Mongolia*. United Nations Development Programme, Mongolia.



CAUSAL CHAIN ANALYSIS OF THE PROBLEMS OF ENVIRONMENTAL DETERIORATION IN MONGOLIA

In an effort to identify the root causes of the salient problems, the Team carried out a causal chain analysis and this is summarized graphically in the above diagram.

Starting from the central problem of environmental degradation, the analysis seeks to find both the consequences of environmental degradation and the causes.

As can be seen in the diagram, environmental degradation leads to a number of consequences and they, in turn, lead to the ultimate result which is poverty. As discussed in section 2.2.3 above, addressing the root causes of environmental degradation will contribute significantly to poverty alleviation and enhanced quality of life. If the root causes are not addressed, poverty is the ultimate cost of environmental degradation.

The analysis diagram also shows that environmental degradation has a number of contributing factors, each of which is an identified environmental problem. The environmental problems are the result of a number of causative factors some of which contribute to more than one of the problems. The analysis proceeds down to what are considered to be the root causes and it is these that the Team wishes to bring to the attention of the Government. Each root cause is discussed below leading to a recommendation for action by the Government which, if adopted, is expected to lead to a solution of the root cause and ultimately to a reduction in poverty.

3.3 Possible solutions

3.3.1 Mainstreaming of environment

One of the fundamental root causes of environmental problems and degradation in Mongolia is the lack of cohesion and lack of a unified approach towards environment within the Government system. There is no policy or commitment to protect and manage the environment which applies across the whole system. Environment is treated as a “sectoral responsibility” rather than as an overarching responsibility of the entire Government system. In this situation, when some Ministries and other institutions of Government follow their mandate and implement their legislation, they have no obligation to take environment into account and their actions can have an impact and degrade the environment. The reasoning given is that *“environment is not their responsibility, but the responsibility of the MNE”*. Unfortunately, this creates an impossible situation for MNE and undermines its work.

There is therefore a need to acknowledge that environmental protection and management are a responsibility of the whole government machinery and that environment must be taken into account in all policies, decisions and actions of Government. This does not mean that environmental considerations will always prevail, but it does mean that the environmental consequences are always weighed against the other benefits and that the decision-making is therefore based on a fuller picture and as a result it is more balanced.

This approach has been adopted and enshrined in law in many countries. For example, in Uzbekistan, environmental management has been recognized as an essential ingredient for sustainable economic development and a commitment to environmental management is enshrined in the Constitution which states in Article 55, *“The land, its minerals, fauna and flora, as well as other natural resources shall constitute the national wealth, and shall be rationally used and protected by the state.”* But the commitment does not stop there. In its National Environmental Action Plan, *“the Government of Uzbekistan considers it important to integrate environmental concerns into the process of the general political, economic and social reforms being carried out in the country.”*

In New Zealand, mainstreaming of environment started with a requirement that most cabinet papers must be the subject of consultation with Environment Ministry and include consideration of the environmental consequences of what was being proposed, in the same way as cabinet papers need to consider the financial implications.

In Malta, the Environment Protection Act states - *“It shall be the duty of everyone together with the government to protect the environment and to assist in the taking of preventive and remedial measures to protect the environment and manage natural resources in a sustainable manner”*, and *“It shall be the duty of the Government to protect the environment for the benefit of the present and future generations”*.

Such a change in paradigm for Mongolia needs the Government to lead with a strong policy statement of its intent to mainstream environment into its thinking, its planning, its decisions and its actions so as to safeguard environmental quality for the greater good of Mongolia and its citizens especially those disadvantaged by poverty.

A new Government policy on environmental mainstreaming will need to be followed by directions on how it will be implemented in each Ministry and Government institution, and the whole initiative needs to be coordinated by the Parliamentary Standing Committee on Agriculture and Environment. This project can assist with drawing up the prescription of actions that will be required. The necessary changes to reflect the new environmental responsibilities of each institution, include a review of legislation and mandates, capacity building, and structural changes. These changes, which cannot take place overnight, are detailed in the Implementation Strategy in section 5 below.

3.3.2 Stronger and more effective Local Government

A key element of mainstreaming will be decentralization – the devolution of environmental responsibilities to the level at which they are being implemented, namely at the Local Government level. This is particularly important for responsibilities surrounding the EIA Process. This means that the inspectorate functions currently carried out by the SSIA should be devolved to Local Government. In doing so, the operational focus should not be “enforcement” before “compliance”. An emphasis on enforcement (without any effort to help with compliance) does little for the environment because once a law has been broken, the damage has been done and imposing a fine does not remedy the impact – fines and prosecutions do not do anything for the environment. In other words, there needs to be an effort on the part of Local Government to educate and inform the private sector and communities about their environmental responsibilities and help them to comply. However, if they do not respond positively to education and information and if necessary, to warnings, then they need to face the consequences of their actions under the law.

There is merit in separating policy formulation, drafting of legislation, setting of standards, strategic planning, providing guidelines and procedures, performance monitoring and reporting, and creating the conditions for a consistent nation-wide approach, on one side; and, the implementation, operational, management and reporting activities on the other. However, there needs to be close collaboration and formal communication channels between those enforcing the law and those who should be constantly on the alert for ways of improving it. In other words, the Local Government Inspectorate, must not simply enforce the law as it appears on paper without reference to the spirit of the law or its ulterior objectives. There needs to be an acknowledgement that an infringement is a problem and that a solution needs to be found – they cannot go from one infringement to the next without any thought on why this happens and how it may be reduced. Therefore, they need to report to the policy analysts at central MNE level who will be able to evaluate the experience and recommend legislation reviews and other “upstream” actions.

Decentralization has already taken place, in principle. However, in practice the situation is far from auspicious since there is a total mismatch between the environmental responsibilities assigned to

Local Government at Aimag and Soum level and the resources that are available to them. Neither is there adequate support, advice and guidance from central level to ensure “quality control”.

The existing situation needs to improve in terms of the capacity available at Aimag and Soum levels, the structure and reporting functions and accountability, and the financial resources available.

Human capacity and know-how are weak and before they can be expected to carry out their responsibilities effectively, personnel at Local Government levels require training. Furthermore, this training should not be a one-off event, but it needs to be repeated at regular intervals to reflect changing circumstances, experience gained, revised legislation and new tools and methodologies.

Structures, recruitment, appointments, salaries and reporting lines need to be simplified and a measure of transparency needs to be introduced. For example, Environmental Inspectors at Soum level are almost totally dependent on the Soum Governor, who is their employer. In practice many Soum Governors may have vested interests and do not always follow environmental regulations. Under these circumstances, the inspector of the Soum is not in a position to charge his employer to stop violations. This abuse can be stopped if the central environment institution (namely, MNE) has a monitoring and reporting function on the environmental management performance at Aimag and Soum levels. It is also more realistic to focus the responsibility at Aimag level in principle, and delegate further to Soum level in special cases where environmental issues are of major significance. Aimag Inspectors and Rangers should be able to take prosecution for breaches of environmental law. This function should be carried out with the support of the Police and a legal department in central MNE to provide advice and take over cases which are too complex to handle at local Aimag level. MNE could also have sub-offices in each of the five Regions to carry out this function and the arrangement can be reviewed in five years time when Aimag may be able to operate more effectively without day to day support.

The funding base for environmental management at local level needs to be reviewed. A lot of controversy currently surrounds the proportion of income from fees and fines and penalties which stays at local level. It is suggested that this matter is irrelevant because it is necessary to remove the reliance on fines and penalties as a source of funding for environmental protection and management. All income from resource use, permits, fines and penalties should accrue to the Central Budget and should not influence the budget allocation which should be made to Local Government in recognition of its environmental protection and management responsibilities. This allocation could be supplemented through other revenue generation strategies such as cost recovery for permit application processing and for EIA investigations.

Full devolution to Local Government level, as proposed above, will take a long time before it becomes fully effective and it will be necessary for MNE to continue to provide support and guidance for some time. In order to do this, MNE itself needs to be restructured and strengthened, and this is discussed below.

3.3.3 New mandate for Ministry of Nature and Environment (MNE)

There are clear indications that the existing Government structure and resources available for environmental protection and management are failing Mongolia. Examples of this include the incursion of housing development onto protected areas, the illegal harvesting of timber and the inadequate rehabilitation of mining sites, all of which are against current legislation and are reported to be carried out in collusion with the responsible officials. This is the result of a weak institutional structure, lack of continuity and the absence of professionalism and career structures in environmental protection and management in the Mongolian Civil Service. Careers and the development of excellence are not encouraged by the changes that take place with each change of government and with the deployment of specialists without any regard for their qualifications and expertise.

Mainstreaming of environment as an overarching responsibility of all Ministries throughout the entire Mongolian Civil Service will require an Environmental Focal Point in each relevant ministry but this will not resolve the existing fragmentation. In order to address this as well as create a champion for environment, it is necessary to assign a coordination, advisory, support and reporting function to MNE after devolving its operational responsibilities to Local Government.

But MNE is under staffed and under resourced. Its mandate seems incomplete, its responsibilities curtailed – when it lost the Environment Protection Agency, MNE also lost the means of obtaining feedback on its policies and legislation so that it could refine them. Its capacity is weak at all levels and there seems to be no effort to train and keep good staff through career structures, good working conditions, leadership, feedback and incentives for excellence. It needs to inject a professional and transparent approach to its recruitment, training (and re-training), career development, job satisfaction and a conducive working environment with feedback and rewards for all its staff. It needs a better focus, better vision, better status, and better credibility. It needs a corporate plan which is developed from the bottom up as well as from the top down to achieve ownership throughout its structure. Through its corporate plan it will become accountable to the people of Mongolia.

What is needed is a stable, professional and well-remunerated MNE, committed to serving the public as well as the Government. Important too is for all appointments, including senior management positions, to be fair, transparent, competitive and decided on merit – the appointees should be the best persons for the job. The availability of career development paths, and appointment and promotion on merit, will encourage the development of excellence. Staff should be proud to work for MNE. Good staff are an investment and the capacity, expertise, experience and know-how of a ministry, especially a technically oriented one like MNE, should not be lost at every election.

MNE needs a higher profile, enhanced credibility and enhanced capacity. As the lead environmental agency for Government, MNE should serve as the environment leader within Government, a primary source of environmental information and advice where other ministries can go for advice and support on environmental matters.

The MNE budget needs to reflect these and other new responsibilities assigned to it by Government policy and public expectations and the financial management system needs to encourage senior and middle management to use financial resources wisely and obtain the best value for money. It needs to be transparent and expose clearly the costs of the various services that it performs – it must be easy to determine if it gives value for money. MNE must not be required to rely on the income from permits, fines and penalties for funding its operations. This is dangerous especially in the case of income from fines which make it dependent on environmental crime for its financial resources and if the crime stops (which should be the ultimate aim), so does the income.

As noted above, mainstreaming requires more effective decentralization at least for environmental protection and management, but with adequate guidance and support from the Central Government level. This will require an effective accountability process through which, the central level will monitor and report on the environmental performance of Local Government levels. This reporting should be positive and constructive, identifying weaknesses so they can be strengthened rather than castigated. In other words this is not a control function, but a mutually beneficial partnership between the Central Government agency responsible for the environment and the Local Governments who are in the front line.

Similar to its function at Central Government level with other ministries, MNE will evaluate the environmental performance of the Aimags, including the Governors – a kind of “environmental performance monitoring” by MNE together with regular reporting. The function could be carried out through a small team of Auditors or Monitors who may either be located centrally in Ulaanbaatar or deployed to Regional offices that MNE should probably set up to carry out this and other functions. This would eliminate the need for Aimag Inspectors to control the Governor’s office (which many suggested), and the Inspectorate could be focussing on activities outside of the Local Government office. Among the other functions of MNE Regional Offices would be to support Aimag Inspectors

and Rangers to take prosecutions with the added support of the Police. Coordination of this function will also require a Legal Department to be set up at MNE Headquarters to provide advice and take over cases which are too complex to be handled at local Aimag level.

Monitoring Central and Local Government environmental performance will not be the only form of monitoring that MNE will be carrying out – MNE will carry out its monitoring function in two ways. It will monitor the performance of its peers in the Civil Service centrally as well as at Aimag and Soum level and report annually to Parliament and to the people of Mongolia. As noted repeatedly, this reporting function is not intended to give MNE any powers over other Ministries or Local Government, it is simply an effort to recognize the strengths and weaknesses of the system so they can be acted upon. The role of MNE will not be that of a “policeman”; it will be more of a “teacher” advising, supporting and helping other Ministries satisfy their environmental obligations under their new mandates which will arise out of mainstreaming. MNE will also monitor the state of the environment as the measure of the overall success of government investment in environmental protection and management. This will be done through observations and measurements of predetermined indicators which are being currently selected under an ongoing project (this is the subject of a specific recommendation below).

In order to make sure that through its monitoring and reporting function MNE is seen as a transparent and impartial agency, it must not carry any other responsibilities. This refers especially to the rumoured amalgamation of Environment and Mining within one ministry. Experience from elsewhere indicates that this creates an impossible situation for the State Secretary and the Minister who will be faced with opposing advice from the two sectors. These sorts of decisions, considering opposing perspectives, each of which is legitimate in its own right, should be made around the Cabinet table not within the same Ministry.

The organogram on the following page is an indicative structure for MNE with a new mandate and responsibilities.

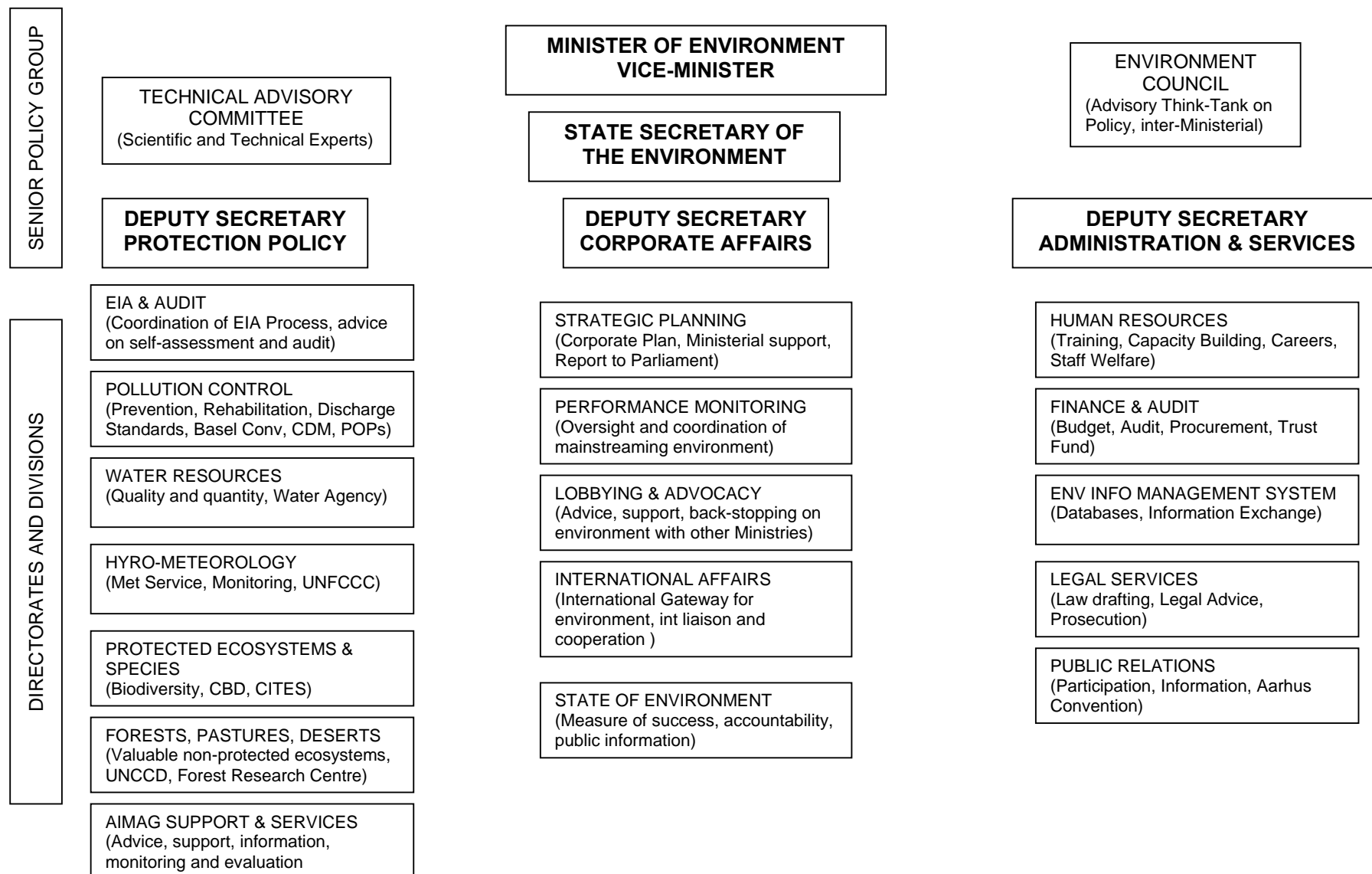
3.3.4 Monitoring and an Environmental Information Management System

In a country like Mongolia, where environment plays such a crucial role in the culture, the economy, and the health and well-being of its citizens, the Government needs to know whether its policies and laws on environmental protection and management are being effectively implemented – it does this through compliance monitoring. It also needs to know the progress that is being made towards its environmental goals and targets – it does this through performance monitoring. Finally, it needs to know the state of the Mongolian environment – it does this through ecosystem monitoring.

Compliance monitoring ensures that established limits, levels, or other boundaries are not exceeded. These boundaries are often set by law, or regulations, or they may be part of the conditions attached to a permit or licence (such as those emanating from the EIA process). They could comprise restrictions of various sorts, limits which must not be exceeded, prohibition of certain actions and other constraints and controls. Limits could apply to the discharge of liquids, solids, gases, noise, vibrations; there could be minimum standards for the receiving environment; or environmental carrying capacity.

Compliance monitoring also relates to access to protected areas or behaviour within protected areas and the taking or using in some way of natural resources. Examples of this would be hunting as a controlled activity with species and seasons being restricted, the collection of medicinal herbs, firewood and similar “harvests”, littering and any other behaviour that needs to be controlled.

Possible scope and structure for a restructured Ministry of Nature and Environment with a new mandate



In Mongolia, compliance monitoring responsibilities under various environmental laws are currently assigned to the State Specialized Inspection Agency (SSIA) (see section 2.3.1.4 above). The specialized nature of the SSIA operation is seen as an efficient way in which to achieve a separation of policy making from policy implementation. However, there are also some disadvantages from such a separation and some disquiet was expressed during consultations at Aimag and Soum level.

The team questions whether the emphasis of compliance monitoring is currently on “enforcement” or on “compliance”? In other words, is the SSIA trying to catch those who break the law, or is it trying to advise and help everyone not to break the law? This distinction is very important to make because from the environment’s point of view, once a law has been broken, the damage has been done and apart from acting as a deterrent for future law breakers, fines and prosecutions do not do anything for the environment.

The main weakness in the present system is the disconnect that has been created between those enforcing the law and those who should be constantly on the alert for ways of improving it. In other words, SSIA staff enforce the law as it appears on paper without reference to the spirit of the law or its ulterior objectives – it is a mechanical approach with little, if any, understanding or appreciation. There is no acknowledgement that an infringement is a problem and that a solution needs to be found – they just go from one infringement to the next without any thought on why this happens and how it may be reduced.

In spite of all this, compliance monitoring must continue, albeit on a more robust basis, with improved protocols, and a serious commitment to follow-up. The team feels that this function is best carried out at Aimag level by Local Government (see section 3.3.2 above) with coordination and scrutiny by the MNE through its regional offices (see section 3.3.3 above).

Performance monitoring tracks progress towards established targets and provides a basis for adaptive management. It is the type of monitoring that is undertaken to assess progress towards a policy, objectives or outcomes. Since the achievement of policy, objectives and outcomes is not easy to measure or observe directly, indicators are often adopted and the attainment of these is easier to gauge because, to the extent possible, they are quantifiable.

The main multilateral donor agencies such as UNDP²⁰, the World Bank²¹ and ADB²², all of which operate in Mongolia, have sophisticated monitoring and evaluation requirements which cover not only progress towards project objectives, but also contribution to higher outcomes.

Performance monitoring is primarily a management tool designed to aid those implementing a policy or a project. One example, where it could be used in Mongolia, is to assess progress towards the Government’s target of 30% of land being brought under protective status. Another example is when aiming to improve the status of an endangered species.

Ecosystem monitoring records the state of the environment from a holistic perspective and the ultimate results of environmental management. As such, it is the most important type of monitoring because even if there is good performance towards some objectives, and even if there is a good level of compliance, the ultimate aim of environmental protection and ecosystem health and integrity may still be elusive.

²⁰ UNDP Evaluation Office (2002) *Handbook on Monitoring and Evaluating for Results*. United Nations Development Programme. New York.

²¹ World Bank Global Environment Division (1998) *Guidelines for Monitoring and Evaluation for Biodiversity Projects*. The World Bank. Washington.

²² ADB Project Performance Management System (2007) *Guidelines for Preparing a Design and Monitoring Framework*. Asian Development Bank. Manila.

Measuring or observing ecosystem health is rarely possible directly, so indicators are usually selected. These are parameters that are easily measured or observed directly and which, between them, can indicate the state of the ecosystem and the state of health of the environment. An initiative supported by the Swiss Development Corporation is currently assisting Mongolia with the selection of a portfolio of effective indicators.

The classic product of ecosystem monitoring is the State of Environment Report (SoER) which, in Mongolia, is produced once every two years or so by the MNE with the collaboration of some other agencies.

Unfortunately, the SoER has not been effective in its aim to reflect the current status of the environment nationwide and serve as an aid to policy formulation and refinement, and there are a number of reasons for this. To start with, some MNE staff still do not fully understand the value and potential impact of the SoER if it is properly compiled. The SoER preparation required dedicated human and financial resources but these have not been available and the quality of reports has suffered. While meteorological, hydrological and some other environmental data are of an international standard, other data are not, because the selection of parameters and the methodology applied in analysis and processing are not always reliable. For example, forest data may be unreliable because the records are not taken at consistent times; data on toxic chemicals are unreliable because they are based on customs registrations and ignore the high level of illegal importation and use. As a result, the reliability and accuracy of the data collected have been of little use for policy and programme implementation, monitoring and revision. In addition, there has been a lack of understanding by members of Parliament and no supporting and coordinating structure at the Governmental level to enforce the implementation of recommendations arising from the SoER especially regarding the energy, mining and the industrial sectors.

A fresh approach to ecosystem monitoring is required to ensure that the investment in this activity produces the targeted results for the benefit of the Government. New technologies and information management strategies have produced a new generation State of the Environment product which is likely to overcome most of the shortcomings of the present system. The modern web-based, often real time, product, is more up to date and certainly more reliable – it is therefore more useful and valuable and a better basis for decision-making. In addition, the MNE Scientific Council should be used to verify the reliability and quality assurance of the data and information that go into the assessment and the SoER.

The data generated by monitoring²³ need to be processed before they can become useful, and this is done through an **Environmental Information Management System (EIMS)**. An effective EIMS responds to clear objectives, involves the minimum and most simple measurements or observations, employs effective processing, analysis and interpretation and triggers pre-determined action. An essential element of the system is a clear identification of responsibilities – who will carry out the various activities in the chain namely: gathering samples/readings/measurements, analysing the data, interpreting and making information available, and executing pre-determined actions triggered by the information.

Such a comprehensive information management system has many benefits for example – a better basis for decision-making by Government (Central and Local), the ability to pre-empt impacts before they become irreversible, a better informed public and therefore more able to take a balanced view on resource use. The National Capacity Self-Assessment (NCSA)²⁴ commented “*there is no reliable centralized information system/clearing house mechanism in Mongolia*”, however, the team is aware of very interesting developments in Mongolia towards such a comprehensive system.

There are three types of information networks and flows in Mongolia which aspire to connect local end-users with environmental decision-making in the country.

²³ Monitoring in Mongolia often refers to – checking, supervising, controlling, enforcing – in other words, compliance monitoring. This is definitely monitoring, but it is not the only type of monitoring and on its own it is not enough.

²⁴ Anon (undated) *National Capacity Self Assessment: Cross-Cutting Assessment Report*. NCSA Project carried out with support from GEF/UNEP.

The first information network connects MNE HQ in Ulaanbaatar with the environmental departments of 21 Aimags through conventional telephone and fax machines and this is the main conduit of information flows. But Aimag departments are relatively weak in ICT usage and each department has a mere 1-3 computers available for office work and very limited data processing.

The National Agency for Hydrology and Meteorology and Environmental Monitoring possesses a relatively powerful network in its Information and Computer Centre (ICC) which serves as the National Meteorological Telecommunication Centre (NMTC).

The ICC serves also as a National Environmental Database, where the Dutch-supported project on the “Mongolia Geo-Information Centre for Natural Resource Management” is being implemented. The project, which is giving effect to the environmental database provisions of the revised law on environmental protection which came into effect in January 2008, has four main components:

- Application of GIS and Remote Sensing for natural resource management
- Natural resource information management
- Use decision support system based on satellite data for natural resource management
- Strengthen human resource management

A start has been made with data accessing and sharing, as envisaged by the legislation revision, but, in the Mongolian situation, this is easier said than done. In spite of the legislation, data is currently scattered throughout a number of organizations and there are no explicit mechanisms to enable or even encourage data sharing. The current plan is to utilize satellite imagery obtained through the MODIS Receiving Station which has a spatial resolution of 250m maximum and with high temporal resolution, and this is expected to continue until 2012.

Environmental protection and management needs a strong information and knowledge base and this is especially important at Local Government level. However, since it needs to apply country-wide, it must be coordinated and managed centrally – the Geo-Information Project is a good beginning.

3.3.5 An active role for the non-government sector

Environmental management is not the task of Government acting alone – it must be a shared responsibility before it can be effective. In this respect, NGOs are doing an impressive job, complementing and supplementing the work of Central and Local Government. This is in spite of the fact that there is no formal mechanism to ensure the participation of NGOs and civil society in the protection of natural resources and the environment. Resource use decisions are made unilaterally and without consultation since there is no requirement to inform, let alone involve the public and citizens’ groups. But two recent law changes provide citizens with an opportunity to protect their homeland and use natural resources responsibly through the formation of a legal entity known as a community partnership or Nukhurlul. One good example where this is being trialled successfully is through the assumed ownership of forests through the concept of community custodianship. These are certainly positive steps forward.

Unfortunately, the same cannot be said of the majority of the private sector for whom good environmental governance and cooperation with the State and community organization on environmental protection, is still an elusive target. More awareness raising is essential if the private sector is to assume its important role as partner in environmental protection and management.

The team feels that Mongolia needs to adopt a legislation basis for involvement of the non-government sector, at community and private commercial levels, in a serious and meaningful way.

New legislation should be modelled on the principles of the Aarhus Convention²⁵ and this is discussed more fully below.

Such new legislation must respect and value the views of the public and communities. It also needs to recognize that an informed and aware public (including the private sector) is more likely to comply; and the participation of an informed public is much more useful to the decision-making process for resource use.

It is useful to note that following the careful adoption of a suite of indicators, and some basic training, ecosystem monitoring can be carried out by students (including senior high school students) and interested community members. Such an approach has been pioneered successfully in Mongolia by the Securing Our Future Programme of The Asia Foundation²⁶. While the students cannot be expected to carry out the various analyses of the collected data, they can certainly carry out the important initial stages of data gathering for an Environmental Information Management System. Apart from being a valuable contribution to the national environmental database, this is also public participation at its best – young people and communities empowered to participate meaningfully in environmental protection and management.

As a mechanism for a truly democratic approach to environmental management, the team proposes that the Government establish a National Environment Conference, to be held every five years or so, to achieve national consensus on the priority environmental issues facing Mongolia. Such a national level conference should be preceded by a preparatory workshop in each Aimag so as to ensure that the major issues facing the people of Mongolia get discussed.

3.3.6 An effective legislation base

There are many good policies that aim to protect the environment in Mongolia, but there are also a number of policies which are bad for the environment and negate the good ones. Likewise, environmental legislation exists but it is not always compatible with other legislation from different sectors. Unfortunately, the lack of acceptance of environment as a responsibility of the entire Government system and the fragmentation that exists within the Mongolian Civil Service, results in inconsistencies between policies and between statutes that often arise when new policies and laws do not replace old ones with which they may not be compatible.

Although policies and legislation are not the main barriers to effective environmental protection and management in Mongolia, there is an urgent need for streamlining the raft of environmental policies and legislation. A clearer message (through policies and legislation) needs to be conveyed regarding the Government's commitment to environmental protection and management in the interest of all Mongolians. The message must apply more consistently across the entire Government system, at both Central and Local levels.

It is also necessary to provide a strong foundation, through new or amended legislation, for the reforms discussed above such as for mainstreaming environment, strengthening local government, giving MNE a new mandate, setting up an effective environmental information management system and creating a partnership between the Government and the non-government sectors.

Changes in legislation must provide a legal basis for the participation of community organizations and individual members of the public; they must emphasize implementation and place compliance

²⁵ The UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (known as the Aarhus Convention) grants the public rights regarding access to information, public participation and access to justice, in governmental decision-making processes on matters concerning the local, national and transboundary environment. It focuses on interactions between the public and public authorities. See <http://www.unece.org/env/pp/>.

²⁶ The Asia Foundation (undated) *Mongolia Highlight: Water Quality Monitoring Hits the Rivers*, and, *Water Quality Monitoring Science Team puts a Wrap on Summer Fieldwork*. Factsheets of The Asia Foundation. See also www.mongoliariverresources.mn and www.asiafoundation.org.

ahead of enforcement. The laws must consider natural resource use as a privilege not a right (not even when payment is made) and must treat natural resources as national assets – owned by the nation, and protected and managed by Government on behalf of the people. Therefore, Government must be bound by the legislation – Government or any of its employees are not above the law and they must observe the law like everyone else. If Government has a genuine difficulty with certain legislation it can use Parliament to change the law and it becomes accountable for this action at the next election through the process of parliamentary democracy.

Consideration should be given to the establishment of environment courts²⁷ to encourage transparency and acceptability of decisions on resource use and conditions. If the system is transparent enough, if policies are clear, if legislation is not ambiguous, if everyone has the right to be heard in front of the legal system, there will be less abuse of power, less corrupt practices.

²⁷ See Environment Court of New Zealand at <http://www.justice.govt.nz/environment/home.asp>

4 RECOMMENDATIONS

The following five recommendations, if adopted, will go a long way towards creating a stronger and more effective system of environmental protection and management in Mongolia for the benefit of its current citizens and its future generations.

Implementation will need to be phased (as in the Implementation Strategy in the next section) but the best benefits will only be obtained if the recommendations are accepted as a package.

4.1 Mainstream environment into thinking and acting within Government

This is the most important recommendation. If adopted, it will remove the flawed sectoral approach to environment which prevails today in Mongolia and which is unsuccessful. It will replace it with a new paradigm – that environment must permeate the entire Government system as a shared responsibility. Environment becomes an intrinsic ingredient in day-to-day thinking and acting and in all Government decisions.

The benefits of mainstreaming are far-reaching and include: a consistent and judicious approach to the use of natural resources on a sustainable basis; improved performance of Government and the Civil Service; enhanced quality of life for rural and urban Mongolians; and a higher reputation for Mongolia internationally and among donors.

4.2 Enhance Local Government capacity to implement decentralization effectively

The benefits of mainstreaming environment at Central Government level, will be reinforced and multiplied if Local Government is empowered to implement its delegated environmental responsibilities effectively. Capacity building will need to address financial and human resources, facilities and equipment and knowledge management.

Capacity enhancement of Local Government will lead to benefits at the local, operational level of an obvious and direct nature. This will create a more positive and more understanding attitude among citizens leading to a more balanced approach to natural resource use.

4.3 Review the mandate and structure of MNE to strengthen it and give it an effective coordination role

When mainstreaming has been adopted by Central Government and becomes the norm, and Local Government has taken up its environmental responsibilities, there will be a need for MNE to assume an overview and coordination role. Without this change in the MNE mandate and structure, the benefits of mainstreaming and decentralization could be put at risk.

In addition to safeguarding the benefits of mainstreaming and decentralization, an efficient and professional MNE will be able to provide the Government with better policy advice, implement Government policies more efficiently and effectively, and take on the role of Government champion for environment, nationally and internationally.

4.4 Consolidate the Environmental Information Management System

Environmental protection and management needs a strong information and knowledge base and this is especially important at Local Government level. However, since it needs to apply country-wide, it must be coordinated and managed centrally.

The benefits of an effective Environmental Information Management System are many, for example – a better basis for decision-making by Government (Central and Local), the ability to pre-empt impacts before they become irreversible, a better informed public and therefore more able to take a balanced view on resource use.

4.5 Develop a mandatory public consultation and participation process

A Government cannot protect and manage the environment on its own – the task is too big. This recommendation will create a culture whereby public involvement in natural resource use becomes the norm. It will be modelled on the provisions of the Aarhus Convention.

Meaningful public participation, based on public information, is for the benefit of the decision-maker since an informed public (including private sector) is more likely to comply. Participants in the decision-making process for resource use are more likely to own the decision even if they do not endorse it fully.

5 IMPLEMENTATION STRATEGY

5.1 Implementing the recommendations

5.1.1 Mainstreaming environment

Mainstreaming environment must start with the formulation of a **strong policy statement** from Government to indicate its commitment to environmental protection and management by the whole Government system.

The policy must be underpinned by a **Law on Mainstreaming Environmental Considerations Throughout the Government System**. Such a Law should revise and amend relevant existing laws which provide the mandates for all ministries, departments and other Government bodies, extending the mandates to make environmental protection a binding obligation for all. The Law will also give MNE the role of coordinator and overseer for mainstreaming.

The **Parliamentary Standing Committee on Agriculture and the Environment** will take the lead responsibility for this reform and the Environmental Governance Project can assist with the drafting of the policy and legislation, with the support of the Ministry of Justice.

One of the critical resources required to implement the mainstreaming policy is an **Environmental Focal Point** in each relevant Ministry and the Environmental Governance Project can assist with the drafting of Job Descriptions and recruitment and training for these positions with the advice of the Mongolian Civil Service Commission.

The drafting of necessary policy and legislation may require external assistance and could take up to six months. The declaration of the Policy by Government should be carried out in an appropriate context so as to obtain the maximum impact. And, although the legislation will require due process to be adopted by Parliament, it should be dealt with as expeditiously as possible so as to maintain the momentum that will be gained through the launch of the Policy.

Following the passing of the Law, implementation should be started immediately following the recruitment and training of the Environmental Focal Point in relevant Ministries. Each Focal Point, with the guidance of MNE, will then start the development of an **“Environmental Code of Conduct”** which will describe how each relevant Ministry will give effect to its new responsibilities to protect the environment. The Parliamentary Standing Committee on Agriculture and the Environment, assisted by MNE, will oversee this process.

The mechanisms for mainstreaming of environment in the Mongolian Government system should be in place within 12-15 months or so, however, the various legal and institutional changes required and the large number of ministries involved, may lead to some delays.

5.1.2 Enhance Local Government capacity

The adoption of this recommendation will be followed by a thorough **Study of the situation at Local Government level**, together with a **Needs Assessment** for Aimags and Soums to enable them to fulfil their environmental protection and management responsibilities. The study will identify the administrative, operational and other tasks that must be carried out by Local Government, reflecting the local circumstances at each Aimag in terms of the natural resources that must be protected and managed, their vulnerability and the threats that exist locally. The study will also identify the capacity that is required to carry out these tasks. The needs assessment will determine what capacity is available and what is missing, what is needed to make up the shortfall, and the strategies that are to be employed to remedy the gaps.

In addition to technical expertise, know-how, skills and other **human resources**, the study and assessment must also identify equipment, facilities, budget and **other resources** that are required. Furthermore, the required **institutional framework** must also be identified and this includes any legislation changes, new procedures, support and advisory sources, etc.

The Environmental Governance Project and UNDP can assist with the writing of the brief for the Study and Needs Assessment and can advise on the recruitment of the necessary experts. The lead responsibility for these reforms will be with the Parliamentary Standing Committee on Agriculture and the Environment with the support of the Environmental Governance Project.

The Study and Needs Assessment are expected to take about 8 months. The results will be incorporated in a proposal for the reform and strengthening of Local Government along the lines of a **Project Document** which can be used to seek sponsorship and assistance for the work. From the time it gets going, this capacity building project at Local Government level can take up to three years to carry out.

5.1.3 The mandate and structure of MNE

The process of **reform for MNE** will be coordinated by a **Working Group** set up for the purpose by the Parliamentary Standing Committee on Agriculture and the Environment. The Working Group will be chaired by the Mongolia Civil Service Commission and comprise senior officials from MNE, and representatives of the Ministries of Finance and Justice, Local Government, environmental NGOs, the private sector, other public bodies and other relevant organizations representing a cross-section of Mongolian society.

The reform and restructuring of MNE, with a **new mandate and identity**, will need to be based on revised or new legislation. This can be carried out through an amendment to the **Environment Protection Law**. The new MNE will have a strong focus on policy formulation, coordination, overview, support, advice and information, and its structure and capacity will reflect this.

In parallel with the legislative reforms, a **Corporate Plan** for MNE needs to be drawn up including a new Mission Statement, new Goals, Objectives and priorities, the scope of its responsibilities, its new structure, and the services that it will provide to the Government, the rest of the Civil Service, Local Government and the general public. The Environmental Governance Project and UNDP can assist with Terms of Reference and recruitment of any required specialist support for this exercise.

The passing of the legislation and the drafting of a Corporate Plan are expected to require about nine months.

When the new scope of responsibilities and structural framework, as indicated by the revised legislation, are agreed and confirmed, Job Descriptions and specifications will be drawn up for the **senior management positions** and recruitment will take place in a transparent way and on a competitive basis, by the Civil Service Commission.

Following their appointment, senior managers will be assisted (by the Civil Service Commission and the Environmental Governance Project) to draw up **Business Plans** for their divisions, directorates or other elements that they are responsible for. They will also draft Job Descriptions for the various positions they are responsible for and, with the assistance of the Civil Service Commission, start the recruitment and appointment process.

The recruitment and appointment process for senior managers is expected to take about six months and appointments to key staff positions can take a further six months. It could take up to two years, from the beginning of the reforms, for all positions in MNE to be filled satisfactorily. In all cases, **training and capacity building**, as necessary, will follow appointment.

While divisional heads are recruiting and filling their staff positions, senior management with the support of the Parliamentary Standing Committee on Agriculture and the Environment, will be engaged in **extensive reviews of operational procedures**. They will also hold discussions with the Ministry of Finance to ensure that **adequate budgetary resources** are available to run the new MNE efficiently in terms of its human resources, equipment, facilities and other requirements to ensure the efficient delivery of its mandate.

While restructuring is taking place, daily tasks and responsibilities still have to be satisfied. For some time there will be a mixture of staff positions, some filled with the present incumbent, others filled by new appointees – this will not be an easy time and the process must be thoroughly planned and carefully managed by the special Working Group to create the least amount of disruption possible. For example, some key positions may need to be filled by temporary appointments in order to ensure that there is no gap in service.

The MNE under its new mandate will produce its first **Annual Report to Parliament on the Environmental Performance of the Civil Service** by the end of the first year and each year from then on. MNE will also produce and publish, electronically and in hard copy, a biennial **State of the Environment Report**.

5.1.4 Environmental Information Management System

The review and strengthening of the Environmental Information Management System (EIMS) will be the first task of the restructured **Environment Information Department/Division** in the new structure of MNE and as such, this work may not be able to start until some 18 months after the beginning of the reform and restructuring. It will be the responsibility of the new Head of the Information Department/Division with the assistance of specialist staff and external expertise as required.

The MNE, with the advice of the Parliamentary Standing Committee on Agriculture and the Environment, will establish an **Environmental Information Users and Providers Board** to advise MNE. One of the Board's first tasks will be to set policies and protocols for environmental information management and the setting up of a central Environmental Information **metadatabase** as the "engine" for the EIMS. There will be a need for specific negotiations with each provider as well as an identification of the needs of users and these will be enshrined in an **operational charter**. This process is expected to require six to eight months.

In the long term, it is also desirable for environmental information sharing and management to be based in legislation. This could take place either through the appropriate amendment of the Law on Environment Protection, or it could become part of a new **Freedom of Environmental Information Law** which will reflect the principles of the Aarhus Convention discussed below.

5.1.5 Public consultation and participation process

The changes to Ministries' mandates, discussed above under mainstreaming, will extend responsibilities to environment protection. As a corollary to this, the changes will also cover **mandatory public consultation and participation**. Furthermore, in consultation with the Ministry of Justice, MNE will seek ways and means for making public involvement in natural resource use as the norm, modelled on the provisions of the Aarhus Convention.

In addition, **training and capacity building** will be provided to Civil Servants right across the Government structure to implement effective Public Participation. Furthermore, **capacity building and empowerment** will also be carried out among communities and the public to enable their meaningful participation.

The Environmental Governance Project and UNDP may be able to assist with this process which is expected to require some eight months.

In the medium to long term, the Ministry of Justice, in consultation with other relevant Government entities and representatives of civil society, will explore the possibility of Mongolia accessing the **Aarhus Convention**.

Finally, MNE will be responsible for setting up and operating a **monitoring and reporting system on public participation** in environment protection and management. The report will be on an annual basis and will form part of the MNE Report to Parliament.

5.2 The National Environment Programme

The recommendations arising from this report are inter-related and for best results they need to be considered as one portfolio and implemented in a cohesive way. This can be achieved by creating a **National Environment Programme** and adopting the recommendations as a core of first tasks under the Programme.

A National Environment Programme should be “owned” by the Parliamentary Standing Committee on Agriculture and the Environment with a secretariat provided by the MNE. The Programme will comprise the top priority issues that need to be addressed in the field of environmental protection and management in the short, medium and long term. It should be reviewed every four years, or soon after the parliamentary elections, and it will serve as the Government’s commitment on environment. The review of the National Environment Programme should take place at a National Environment Conference.

The **National Environment Conference** will be a broad-based, inclusive event which starts with **preparatory workshops in each Aimag**. These will contribute to the national Conference through representatives from each Aimag. In addition, participants should also come from Central Government organizations, academia, NGOs, the private sector, and the donor community. The first such Conference should take place soon after a new Parliamentary Standing Committee on Agriculture and the Environment has been established (and certainly before the end of 2008). One of the main tasks of the First National Environment Conference will be to consider the portfolio of recommendations arising from this report and seek consensus on their endorsement and/or refinement.

5.3 Tentative timeline for reforms

As noted above, the Parliamentary Standing Committee on Agriculture and the Environment will take the lead responsibility for setting up the National Environment Programme, holding the First National Environment Conference and carrying out the reforms recommended in this report. In this, the Committee will be assisted by the Environmental Governance Project, at least initially. It is therefore up to the Parliamentary Standing Committee to determine the timetable for the reforms. The timeline shown on the next page is tentative only, and it is meant primarily to show the relationships between the various recommendations and the expected time requirement for their adoption and implementation.

Table 6. Tentative timeline for proposed reforms in environmental protection and management

ACTIONS TO IMPLEMENT RECOMMENDATIONS		YEAR 1				YEAR 2				YEAR 3				YEAR 4				
		Q.1	Q.2	Q.3	Q.4	Q.1	Q.2	Q.3	Q.4	Q.1	Q.2	Q.3	Q.4	Q.1	Q.2	Q.3	Q.4	
MAINSTREAMING ENVIRONMENT	Policy statement from Government on Environmental Protection																	
	Legislation – umbrella law to amend all relevant laws providing mandates to all relevant Ministries				?	?	?											
	Appointments and training of Environmental Focal Points in all relevant Ministries					?	?	?										
	Development of Environmental Code of Conduct for each relevant Ministry						?	?	?									
LOCAL GOVERNMENT STRENGTHENING	Conduct Study and Needs Assessment for Environmental Governance at Local Government level																	
	Proposal for Reform and Strengthening of Local Government (Project Document)																	
	Lobbying and negotiation for sponsorship of Project																	
	Implementation of Project for Strengthening Environmental Governance at Local Government Level																	
MNE NEW MANDATE	Set up Working Group on MNE Reform																	
	Amendment to the Environment Protection Law to cover new MNE mandate																	
	Corporate Plan for MNE – Mission Statement, Goals, Objectives Priorities, Structure, Services																	
	Job descriptions and appointments for Senior Management Positions																	
	Business Plans for Directorates, Divisions, etc																	
	Job descriptions and appointments to Middle Management and other staff positions																	
	Training and Capacity Building for new roles and responsibilities																	
	Extensive reviews of operational procedures according to new mandate																	
	Annual Report to Parliament on Environmental Performance of the Civil Service																	
Biennial Report on the State of the Mongolian Environment																		
ENVIRONMENTAL INFORMATION MANAGEMENT SYSTEM	Review the ICC and set up the Environment Information Division/Department in MNE																	
	Establish Environmental Information Users and Providers Board																	
	Review and strengthen hardware and software facilities for information management																	
	Training and Capacity Building for technical staff																	
	Determine Policies and Protocols and establish the Environmental Information Metadatabase																	
	Draft Freedom of Environmental Information Legislation (modelled on Aarhus Convention principles)																	
PUBLIC PARTICIPATION	Ensure mandatory Public Participation provisions in changes to Environment Protection Law																	
	Develop Guidelines for Public Participation (based on principles of Aarhus Convention)																	
	Training and Capacity Building for Civil Servants to implement effective Public Participation																	
	Capacity building and empowerment among the public to enable participation																	
	Examine the pros and cons of Mongolia becoming a signatory to the Aarhus Convention																	
	Monitor, evaluate and report on Public Participation																	
NATIONAL ENVIRONMENT PROGRAMME	Set up the National Environment Programme under the Environment Protection Law																	
	Organize Aimag Preparatory Workshops for the National Environment Conference																	
	Organize National Environment Conference – consensus on priorities and way forward																	