
ADMINISTRATIVE ENFORCEMENT MECHANISMS IN MONGOLIA

ENKHBAT, A.

Biodiversity Coordinator, Ministry for Nature & the Environment of Mongolia
Khudaldaany gudamj-5, Ulaanbaatar-11, Mongolia

SUMMARY

Mongolia has a long and rich environmental legal tradition dating back to the time before Chingis Khan. Almost a thousand years ago, Mongolia already had laws to protect its wildlife from abuse and overhunting. In 1991, Mongolia reaffirmed its commitment to this tradition by enacting a new Constitution guaranteeing the right of all Mongolian citizens to live in a clean and healthy environment, and again in 1992, by signing, along with 167 other nations, the Convention on Biological Diversity. Since that time, the Mongolian government has been actively developing a legal framework capable of conserving its natural heritage while at the same time responding to the demands of the newly introduced market economy.

1 ENVIRONMENTAL LEGAL FRAMEWORK

Most of Mongolia's laws have some relevance to environmental protection, but the most closely related are the following:

- Law on Environmental Protection, 1995
- Law on Air, 1995
- Law on Hunting, 1995
- Law on Protection from Toxic Chemicals, 1995
- Law on Forests, 1995
- Law on Natural Plants, 1995
- Law on Water, 1995
- Law on Land, 1994
- Law on Underground Resources, 1994
- Law on Mineral Resources, 1994
- Law on protection of Livestock Genetic Fund and Health, 1994
- Law on Natural Plant Use Fees, 1995
- Law on Water and Mineral Water Use Fees, 1995
- Law on Fees for Harvest of Timber and Fuelwood, 1995
- Law on Hunting Reserve Use Payments and on Hunting and Trapping Authorization Fees, 1995
- Law on Special Protected Areas, 1995
- Law on Environmental Impact Assessment, 1997

Also more than 30 Resolutions have been passed with at least another 10 in the drafting stage. Of these, perhaps the most important is the Mongolian Environmental Impact Assessment regulation. Together these laws cover every major resource and establish the primary rights and responsibilities necessary to make environmental protection a reality.

2 INSTITUTIONAL RESPONSIBILITIES FOR ENVIRONMENTAL CONSERVATION

Several government organizations are responsible for the protection of Mongolia's environment. Their responsibilities are contained in each of the environmental laws. The following are some of the primary actors discussed by the environmental laws and the responsibilities delegated to them.

2.1 The Ikh Khural (Parliament) of Mongolia

The Mongolian Law on Environmental Protection designates the Ikh Khural as responsible for the following environmental issues:

- Determining government policy on environmental conservation.
- Proper utilization of natural resources.
- Restoration of natural resources.
- Ratification and control over enforcement of environmental laws.
- Endorsement of and changes to the lists of endangered plant and animal species.
- Designation of areas under State protection.
- Setting maximum and minimum fees for natural resource use.

2.2 The Cabinet Ministry of Mongolia

The Cabinet Ministry is responsible for the following conservation activities:

- Coordinating and regulating the activities of governmental and non-governmental organizations.
- Developing and coordinating implementation of the National Program.
- Financing the National Program.
- Restricting by law the use, import and export of natural resources.
- Upon consultation with the Ministry and Aimag and Capital City Governors, prohibiting economic and other activities of citizens and economic entities which adversely effect the environment.
- Organizing ecological education and training.
- Creating an economic and organizational system for and within Strictly Protected Areas, National Conservation Parks, Nature Reserves and Monuments.
- Setting protected area boundaries.
- Prohibiting the taking of Very Rare species flora and fauna.
- Regulating the use of Rare plant and animal species.

- Registering Very Rare and Rare Animals in the Mongolian Redbook.
- Establishing effluent limits and standards for adverse affects.
- Encouraging introduction of environmentally sound technologies.
- Studying natural resources.
- Conducting assessments oil quantity of natural resources.
- Establishing general system for ecological security and natural balance.
- Preventing pollution.

2.3 The Ministry for Nature and the Environment

In general, the Ministry is responsible for the development and enforcement of the Cabinet Ministry's environmental policy and laws, the regulation of the utilization and protection of natural resources and its restoration. It is responsible for the following activities:

- To establish a policy on environmental protection, the rational use of natural resources, their rehabilitation, and ecological safety and balance, and to take preventative measures against any negative consequences for nature and the environment.
- To provide for the implementation of environmental protection legislation and to stop violations.
- To be responsible for the "red book" of Mongolia, for territories under special state protection and ecotourism, to improve the system of financial estimates and compensation for natural resources.
- To organize surveys on natural and climatic conditions, on water, pasture, flora, and fauna resources and changes to them, and pollution of the environment and evaluation of the results of these surveys, and to provide businesses, other organizations and the pollution with necessary information about nature and the environment.
- To conduct ecological examinations and to draw conclusions on the planning of urban areas, oil technical and economic substantiation, construction and reconstruction technology of factories and other buildings.
- To be responsible for estimates of and an information bank about the soil, mineral wealth and other resources such as forests, water, air, flora and fauna.
- To cooperate with other state authorities to make a list of chemical and other hazardous substances and sources, their wastes and to organize the control over their use, storage, protection, transport and safe packaging in order to prevent any negative influences on nature.
- To organize and regulate the elimination of the consequences of natural disasters and commercial accidents, and the consequences from the loss of radioactive and hazardous substances or sources, and to provide protection from their influences.
- To work out nature protection and natural resources rehabilitation programs which shall be implemented by the government.
- To manage and organize land and forestry tenure, census of animals (fauna), and to regulate activities affecting their use and protection.

- To determine, in collaboration with other authorities, and to approve general rules for the extraction and rational use of natural resources, and to organize control over their use.
- To determine in collaboration, with local administration scheduled figures of timber cutting, game permitted for hunting by law and other natural wealth possible for the processing industry.
- In accordance with Article 21 of the Law on Hunting in the event of the need to hunt or trap animals whose take is otherwise forbidden, to submit the proposals to the government for resolution.
- In cooperation with the Ministry of Agriculture and Industry to examine and choose the business organizations which are intending to serve foreign hunters and to grant them a license (or permission).
- To determine national standards on the regulation of negative influences on nature and the environment.

Other recent environmental legislation delegates the following conservation responsibilities to the Ministry for Nature and the Environment:

- Organizing the implementation of the national environmental policy and legislation.
- Approving and monitoring, in accordance with other Ministries, Aimag, and the Capital City, the implementation of environmental protection.
- Carrying out intersectorial and interregional coordination on conservation of nature.
- Adopting, through authorized organizations or in collaboration with other authorities, the standards of environmental capacity and organizing their implementation.
- Setting limits for the annual use of forest resources and plants.
- Placing restrictions on the use of certain kinds of natural resources.
- Coordinating research and development for environmental protection.
- Coordinating the Certified Organizations.
- Providing citizens with environmental information.
- Providing methodological assistance to the local authorities on environmental protection.
- Monitoring the implementation of environmental legislation.
- Organizing work on eradication of damages incurred due to violations of these regulations.
- Providing State Inspectors with self defense weapons and equipment.
- Establishing a database for natural resources including land, minerals, forests, water, animals, and plants.

2.4 The Ministry of Agriculture and Industry

The Ministry of Agriculture and Industry has responsibility for some of the same resources as the Ministry for Nature and the Environment. The Ministry, however, is charged with the economic development of those resources rather than their preservation, conservation or protection. Some of the Ministry's responsibilities relevant to the environment include the following:

- Develop the leather, fur, clothing, wood processing , engineering and metal working industries and domestic services.
- Develop foreign economic cooperation.
- Cooperate with other ministries on market regulation using such key mechanisms as customs, taxation, and loans.
- Encourage exports, liberalize imports, establish the relational structure of exports and imports, and take measures on the promotion of foreign trade.
- Study, examine and choose the prospects for the economic development strategy, organize the conclusion of treaties or agreements on the receiving of loans and financial assistance for the accomplishment of these projects.
- Develop tourism in Mongolia.
- Conclude agreements with foreign countries and international organizations oil trade, economic and technical cooperation, investment, and tourism and to provide for the implementation of obligations taken by those agreements.

2.5 Local Government Institutions

The Constitution of Mongolia establishes local government units. Local government, like the central government, is divided into three branches, executive (consisting of a governor and related staff), legislative (or Citizen Representative Khurals), and judicial. The local governments are divided into six political units: The Aimag is the largest and is subdivided into Soum which are then subdivided into Bag. The Capital City, Ulaanbaatar, is treated separately by both the Administrative and Territorial Units Law and the environmental laws. The Capital City is subdivided into Duureg (districts) and then Khoroo (micro-districts).

2.5.1 Local Governors

Aimag and Capital City Governors have the following environmental protection responsibilities:

- Develop measures for environmental protection.
- Transmit measures to the appropriate Citizens Representatives' Khurals and organize the implementation.
- Transmit to the Ministry ecological information stored in local information databanks.
- Control any activities of local business entities. If necessary, the Governor shall also prohibit their activities with adverse effects.
- Coordinate activities of the local environmental organization.

- Equip the chief inspector with the required tools and transportation.

2.5.2 Soum Governors

Soum Governors have the following conservation duties:

- Organize the implementation of the legislation.
- Issue permits citizens to use nature.
- Monitor compliance.
- Assess and approve the measure of citizens rehabilitated or enhanced by them.

3 CERTIFIED ORGANIZATIONS

Certified Organizations, once established and functioning, will comprise one of the most important implementing arms for Mongolia's environmental protection activities. Certified Organizations are the enterprises and institutions which, pursuant to relevant law and the Ministry for Nature and the Environment, collaborate with the local governments on issues of protection and utilization of natural resources such as forest, wildlife, water and minerals. Article 30 of the Mongolian Law on Environmental Protection identifies the rights and responsibilities of Certified Organizations as follows:

- Incorporate in its sectoral policies any measures concerning the protection of the environment.
- Organize the implementation of environmental legislation at the sectoral level and annually report to the Cabinet Ministry on the fulfillment of the preceding.
- Identify natural resource use areas.
- Establish and enter into agreements for natural resource use with local citizens and enterprises pursuant to any relevant resolutions issued by the Ministry for Nature and the Environment.
- Take precautions and protect the environment from disease, harmful insects and rodents, fire and natural disaster.

Currently, the forestry and hunting boards located in the Capital City and the Aimag act as the Certified Organizations. However, they have not been certified as such and are experiencing financial and management difficulties as a result.

4 CITIZEN REPRESENTATIVE KHURALS

The Aimag and Capital City Representative Khurals have the following biodiversity conservation duties:

- Approve environmental protection measures and required budget.
- Set maximum limits for the use of natural resources in the local areas.
- Make decisions on the status of local protected area.
- Establish protected area boundaries.

- Set up protection status and procedures.
- In cities and other settlements, establish borders of special areas.
- Comments on the Governor's report.

Soum and Duureg Representative Khurals have the following biodiversity conservation duties:

- Approve measures on environment and monitor implementation.
- Determine annual limits on the use of natural resources.
- Comment on the Governor's report.

