REPORT ON ELIGIBILITY

To the Board of Directors
on
Compliance Review Panel Request No. 2023/1
on the
Mongolia: Regional Road Development and Maintenance Project
(Asian Development Bank Loan 3679/3786)

July 2023

This document is being disclosed to the public in accordance with ADB’s Access to Information Policy.
ABBREVIATIONS

ADB – Asian Development Bank
AMP – 2012 Accountability Mechanism Policy
COVID-19 – coronavirus disease
CRP – Compliance Review Panel
CRO – Complaint Receiving Officer
EARD – East Asia Department
EBRD – European Bank for Reconstruction and Development
GRM – grievance redress mechanism
km – kilometer
MRTD – Ministry of Road and Transport Development
PIU – project implementing unit
PMU – project management unit
UBD – Ulaanbaatar–Darkhan road

NOTES

(i) The fiscal year (FY) of the Government of Mongolia ends on 31 December. “FY” before a calendar year denotes the year in which the fiscal year ends, e.g., FY2023 ends on 31 December 2023.

(ii) In this report, “$” refers to United States dollars.

In preparing any country program or strategy, financing any project, or by making any designation of or reference to a particular territory or geographic area in this document, the Asian Development Bank does not intend to make any judgments as to the legal or other status of any territory or area.
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I. BACKGROUND

1. A request for compliance review (the complaint) was forwarded on 8 May 2023 by the Complaint Receiving Officer (CRO) of the Asian Development Bank (ADB) Accountability Mechanism (AM) to the Compliance Review Panel (CRP) in respect of ADB Loan No. 3679/3786 in connection with the Regional Road Development and Maintenance Project (the project) in Mongolia as Attachment 1.1

2. In accordance with para. 178 of the Accountability Mechanism Policy 2012 (AMP) and associated operational procedures on the Accountability Mechanism,2 the CRP carried out an initial assessment and confirmed that the complaint fell within the mandate of the compliance review function. On 15 May 2023, the CRP forwarded the complaint to ADB Management, requesting that a response to the complaint be submitted within 21 days. Accordingly, the Management Response was provided to the CRP on 14 June 2023, and is included as Appendix 2 to this report.

3. Following review of relevant documents, virtual and on-site/in-person consultations, the CRP has determined that the complaint is ineligible for compliance review since one of the complainants, a farmer, is not directly affected by ADB-funded project activities. The CRP is satisfied that this complainant’s assertion of adverse impacts relates to construction activities funded under a separate project financed by the European Bank for Reconstruction and Development (EBRD). The farmer’s grievances fall within the exclusion in para. 148 (i) of the AMP and are not eligible for compliance review. Consequently, the complaint overall cannot meet the requirement of para. 138 (i) that complaints be filed by any group of “two or more people who are directly, materially, and adversely affected.”

II. THE PROJECT

A. ADB’s Ulaanbaatar–Darkhan Road Project

4. The Government of Mongolia’s Regional Road Development and Maintenance Project will improve/rehabilitate several roads in the country. One of these is the Ulaanbaatar to Darkhan (UBD) road, rehabilitation of which is funded by ADB. The UBD road project which is the subject of the complaint is a project loan of $118.5 million to improve road asset management capacity; road condition; and road safety. The original project loan was approved on 29 June 2018, with financing of $60 million from regular ordinary capital resources (OCR) (L3679). The loan agreement for the original project was signed on 23 July 2018 and declared effective on 21 August 2018 with a closing date of 30 June 2026. Additional financing was approved on 20 May 2019 with finance of $58.5 million from regular OCR (L3786) and a grant of $1.5 million from ADB’s High-Level Technology Fund (G0644). The loan and grant agreements for the additional financing were signed on 2 October 2019 and declared effective on 5 November 2019 with a closing date of 30 September 2026. The project is categorized B for environment impacts, B for involuntary resettlement impacts and C for indigenous peoples impacts.

5. The project’s expected impacts are inclusive economic growth promoted by enhanced local, regional, and international connectivity in Mongolia. The project’s expected outcome is

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1 Information about the project is available at https://www.adb.org/projects/48186-005/main and https://www.adb.org/projects/48186-007/main

improved safety of road transport within the project area and between countries, based on three outputs: i) improved road asset management capacity; ii) improved road condition; and iii) improved road safety. Civil works contracts for 5 packages for Ulaanbaatar–Darkhan (UDB) road rehabilitation works under output ii) were awarded in June 2019 comprising: i) CW1-1, reconstruction of route UBD road: 37.26 kilometer (km) road section departing from west province to North Khar Modot pass; ii) CW1-2: 45.5 km road section from North of Khar Modot pass to Urikhan (relevant to this complaint); iii) CW1-3 45.74 km road section from Urikhan to Sumber intersection; iv) CW1-4, 45.08 km road section from Sumber intersection to Tsaidam valley; and v) CW1-5, 30.53 km road section from Tsaidam valley to Darkhan roundabout.

6. The later additional finance did not alter the impact and outcomes of the initial project loan and, of relevance to the present complaint, included further enhancement of safety and flood resilience of the UBD road, some of which was severely damaged by floods in 2018. The grant component of the additional finance is not directly relevant to the present complaint and is not considered further in this report.

7. The Government of Mongolia is the borrower with the Ministry of Road and Transport Development (MRTD), acting as executing agency and the implementing agency is the Road Policy Implementation and Coordination Department of MRTD. A project implementing unit (PIU) was established within the implementing agency on 15 July 2018 and remains operational at the time of writing this report.

8. The contract for section CW 1-1 was awarded in June 2019. This section runs from west province to North Khar Modot Pass and is the nearest section to Ulaanbaatar. This section is relevant to one of the complainants (a resort owner). The contract for the section CW1-2 from north of Khar Modot Pass to Urikhan (45.5 km), which is relevant to both complainants, was first awarded on 14 June 2019. Road rehabilitation work started that same month, with scarification/recycling in six stretches totaling about 4 km in the first half of the section. Due to the poor performance of the contractor, which was noted during an ADB review mission in November 2019, the contract was terminated by MRTD on 16 August 2020 with ADB’s agreement. After rebidding, a new contract was awarded to M/s ARJ Capital LLC on 2 September 2021. According to the Management Response to the present complaint, the overall performance of the new contractor is at 72% as of 14 June 2023 with completion planned for 1 September 2023.

9. Aside from ADB’s finance, EBRD approved financing of $137 million and additional financing of $20 million in December 2019 and February 2020 respectively for additional work on the UBD road. EBRD’s finance was for the construction of two new lanes adjacent to the existing two lanes of the UBD road, complementing earlier works along the same corridor funded by the ADB. MRTD is also the executing agency for EBRD’s financing.

B. Division of the Contractors’ Responsibilities

10. ADB’s scope of work covers rehabilitation of the existing UBD road and the widening works are financed under the EBRD project. While seeking investment for the additional two lanes, MRTD planned to complete the rehabilitation work at the existing right of way (phase 1). Construction of two additional lanes was the focus of a second phase; phase 2. As per the Environmental and Social Impact Assessment of July 2019 prepared for the EBRD project, EBRD-financed contractors were to use the ADB-financed phase 1 rehabilitated road and were not initially expected to make use of temporary roads that had been constructed for use by motorists and ADB-financed contractors during the phase 1 rehabilitation works. However, due to poor performance and subsequent termination of the contract of the ADB-financed first contractor on
the second, CW1-2, section, rehabilitation work in that section was delayed. Meanwhile, the 
EBRD-financed contractor commenced works on this same section of road in March 2021 while 
the ADB-financed new contractor re-commenced rehabilitation works on that section in 
September 2021. In this scenario, temporary roads remained in use during the phase 2 EBRD-
financed work.

11. At the suggestion of the supervision consultant, some time before September 2021, MRTD 
decided to divide the maintenance of the temporary road at section CW1-2 between the ADB-
financed and EBRD-financed contractor. By means of an agreement confirmed by an instruction 
from the supervision consultant on the ADB project, the ADB-financed contractor became 
responsible for the maintenance of the temporary road from Km 0+000 of the CW1-2 section to 
Km 22+750. The CRP understands that the EBRD contractor was responsible for the 
maintenance of the temporary road from that Km 22+750 to the end point of CW1-2 which is Km 
45+500. This latter section includes the access from the UBD road to the locations of the two 
complaints – the resort owner (Km 44+350) and the farmer (Km 36).

III. THE COMPLAINT

12. The complaint was submitted by two complainants who are referred to in this report as the 
“resort owner” and the “farmer.” The complainants did not request that their names and contact 
details be kept confidential.

13. These same two complainants had initially lodged their complaint with the Office of the 
Special Project Facilitator (OSPF) on 27 May 2022. The complainants raised concerns over loss 
of business income, impacts on livelihood, road safety, and environmental issues. On 23 June 
2022, OSPF found the complaint ineligible due to lack of prior good faith efforts by the 
complainants to resolve their issues with the concerned ADB operations department.

14. Issues raised by the complainants in their complaint to the CRP in 2023 are summarized 
as follows:

i) Travel Company and Resort Owner. On 19 April 2023 the general manager of a 
travel company and resort, Dugan Khad Travel, submitted a complaint from the 
company to the Complaint Receiving Officer (CRO) of ADB’s Accountability 
Mechanism. The Dugan Khad resort is located between Ulaanbaatar and Darkhan city 
and is 9.5 km from Km 44+500 of the second section of the main project road. As with 
the earlier complaint to OSPF, the complainant was treated for complaint handling 
purposes as the owner of the company since the AMP does not explicitly provide for 
complaints to be brought by legal entities that are not affected persons (para. 138). 
The owner of the resort later confirmed to the CRP that she was the complainant. She 
asserted that in August 2019, without prior notice, rehabilitation of the existing main 
road began, including the removal of existing paving on the road. Access to the resort 
was severely disrupted leading to the loss of tourists and consequently loss of income/revenue. In addition, the complaint asserted that more than 20 people have died, and 
hundreds of businesses lost their income. The resort owner asserts that this is due to 
ADB’s noncompliance with its policies and procedures. She confirmed that her issues 
remain unresolved despite her efforts to resolve them with ADB Management. In later 
correspondence with the CRO, the complainant submitted a written account of her 
prior good faith efforts to resolve her issues with Management as required by the 
Accountability Mechanism Policy.
ii) Farmer. The farmer was added as a co-complainant on 6 May 2023 at the request of the resort owner. The CRO did not immediately contact the farmer to confirm her complaint, presumably assuming that, like the resort owner, the farmer’s complaint remained in essence the same as the complaint initially forwarded to the OSPF. The farmer was not immediately contactable by electronic means by the CRP. However, the CRP was able to talk to her and confirm the substance of her complaint as earlier communicated to the OSPF, and also confirmed that ADB Management was aware of its content. Project-level grievance redress mechanism (GRM) records [09 July 2022, 09 August 2022, 13 May 2023] also record the farmer’s assertions that access to her farm had been blocked as a result of the road rehabilitation work; that her berry crops had been damaged due to dust emissions from construction activities, specifically from quarrying and use of the temporary road that was in use while the main road was closed for rehabilitation work; and that her cattle had also suffered as a result of dust. During the CRP’s in-person meeting with her, she elaborated that her cattle’s milk production had dropped by 50% and the milk quality had deteriorated to the extent that her earlier buyer rejected it. The farmer added that her vehicle windshield had been broken twice while travelling on the temporary road.

15. The CRP held a virtual meeting with the resort owner on 23 May 2023 to understand and reconfirm her concerns as written in the submitted complaint. The farmer could not join that meeting due to her limited connectivity. The CRP sought further information from the resort owner to establish whether the complainants had raised their concerns with the operations department concerned (in this instance, the Mongolia Resident Mission, East Asia Department) and whether there had been any discussion to resolve their issues. The resort owner expressed her dissatisfaction with her discussions with ADB Management and the Social and Community Officer at the local government (soum) level to whom she was referred to by ADB. She reiterated her grievances as mentioned in her emails and requested monetary compensation to cover her losses.

16. Following its initial discussion with the resort owner, the CRP updated itself on the OSPF’s earlier process and thereafter held a meeting with the ADB project team to hear their perspective on the project and the two complainants’ concerns.

IV. ADB MANAGEMENT RESPONSE

17. In accordance with para. 178 of the AMP, ADB Management submitted a response to the CRP on 14 June 2023 setting out its view that ADB had complied with relevant ADB operational policies and procedures during the processing and implementation of the project (Appendix 2 of this report). Supporting documents referenced in the Management Response as well as several additional project documents were also provided by ADB Management at the CRP’s request.

18. In its response, ADB Management explained that the operations team made efforts to meet with and explain the project-level grievance redress mechanism (GRM) process to both complainants in May and July 2022. However, the resort owner did not submit a formal complaint through the GRM. The Management Response also indicated that MRTD had sought to address the resort owner’s issues and had decided to construct an 8.5 km paved access road with pipes, culverts, and road markings from the main UBD road in the direction of the complainant’s resort. ADB Management asserted that MRTD has already awarded a contract for construction of this paved access road and anticipated the completion of these works by the end of 2023.
19. In relation to the farmer’s complaint, Management asserted that the issues raised relate to a portion of the temporary road that is the responsibility of the EBRD-financed contractor. Notwithstanding this fact, the ADB PIU had facilitated resolution of the complaint relating to the blockage of one of the farmer’s access roads as a result of work done by the EBRD-financed contractor since at that time, the EBRD project did not have a PIU. The earth blocking access to the farm had been removed and other issues raised by the farmer were being addressed.

20. The Management Response also sets out Management’s view of ADB’s compliance with relevant operational policies and procedures, noting *inter alia* that: (i) an initial environmental examination (IEE) and environmental management plan (EMP) had been prepared by undertaking an assessment commensurate with anticipated risks and impacts; (ii) no involuntary resettlement impacts were expected since the road rehabilitation was to be within the road’s existing right of way; (iii) meaningful consultation was conducted during 2017 and 2018 by MRTD using an opinion survey with households residing along the UBD road corridor; (iv) MRTD had given prior notice of commencement of work on the project through a media conference on 15 June 2019 and project information had been disclosed through media releases and MRTD website notifications; (v) a GRM was functional from July 2019, and in 2022, the GRM was upgraded to include four local Social Outreach Officers tasked with on-site consultations; (vi) a PIU had been established for the ADB-financed project; (vii) supervision consultants were deployed to supervise the contractors to maintain road quality during construction; (viii) mitigation measures set out in the EMP to maintain fugitive dust within national limits along the temporary road included: enforcing speed limits; applying water suppression techniques; (ix) monitoring and reporting requirements for the project had been established and monitoring reports had been provided to ADB on an annual/semi-annual basis; (x) regular review missions had been carried out during project implementation; and (xi) monitoring reports, records of ADB supervisions and progress reports indicate that consultation and participation activities had been undertaken.

21. The Management Response expresses Management’s view that the complaint should be excluded from compliance review by the CRP pursuant to paragraphs 179-180 of the AMP on the basis that: (i) there is no evidence of ADB’s noncompliance with its operational policies and procedures (Section III); (ii) good faith efforts to resolve issues with the operations department have not been exhausted; (iii) the complaint relates to actions that are the responsibility of other parties i.e. EBRD (Section IV); (iv) the complaint does not provide evidence that direct and material harm has been caused, or is likely to be caused, by ADB’s noncompliance with its operational policies and procedures (Section V); (v) the complaint is ineligible for CRP review as it has not satisfied the procedural requirements for complaint submission (Section VII); and (vi) furthermore, “the Complaint’s request for monetary damages is not provided through the compliance review function (para. 60).”

V. ELIGIBILITY DETERMINATION

A. Eligibility Assessment Process

22. The CRP’s eligibility assessment process involved the following steps:

i) review of the complaint and other documents (including videos) provided by the complainants to the CRP;

ii) review of Management Response, including related project documents subsequently requested by the CRP;

iii) virtual meeting between the CRP and the resort owner;

iv) telephone conversation with the farmer;
v) site visit and in-person meetings with the two complainants, community members and affected people adjoining the UBD road, the executing agency/implementing agency, supervision consultants, contractors, and other relevant government departments/agencies including the National Emergency Management Agency (NEMA), Ministry of Environment and Tourism of Mongolia and Ulaanbaatar Traffic Police; and other stakeholders including the National Tourism Association (NGO/CSO); and  
vi) detailed discussions with the ADB project team.

23. The CRP has made its determination of eligibility on the basis of provisions of paras. 148 (i), and 138 (i) of the AMP, which state:

148 .... In addition, for the purpose of compliance review, the following will also be excluded (i) complaints relating to actions that are the responsibility of other parties, such as a borrower, executing agency or potential borrower, unless the conduct of these parties is directly relevant to an assessment of ADB’s compliance with its operational policies and procedures”.

...  
“138. For both the problem solving and compliance review functions, complaints may be filed by (i) any group or two or more people in a borrowing country where the ADB-assisted project is located or in a member country adjacent to the borrowing country who are directly, materially and adversely affected...”

24. The CRP discussions revealed that the two complainants have made prior good faith efforts to resolve issues with the ADB operations department as required by para. 180 of the AMP. While the Management Response agrees, it also asserts that good faith efforts to resolve the issues are ongoing or have not been exhausted or are being addressed through the project's GRM. The CRP notes that the two complainants decided to bring their issues to the Accountability Mechanism after making good faith efforts to engage with the ADB project team /Management. The complainants are free to exercise this option based on their own assessment of progress made and outcomes so far realized through their good faith efforts. Therefore, CRP concludes that the complaint is not excluded from eligibility on the grounds that there are ongoing good faith efforts with the ADB project team/ Management.

B. Eligibility Assessment

25. The two complainants – the resort owner and the farmer - have shared information on the direct and material harm that they assert they have experienced via email and in person with the executing agency/implementing agency, the ADB project team and the CRP. Both the resort owner (9.5 km from the Km 44+350) and the farmer (Km 36) are in the second section (CW 1-2) of the five sections (CW 1-1 to CW 1-5).

26. Resort Owner. The resort owner claimed that closure of the project road since August 2019, when the construction commenced, and the poor management and delays of the road project, have resulted in difficulties accessing her resort, thereby substantially reducing the number of resort visitors. During the site visit, the CRP examined the complainant’s claims across different time periods and noted the following:

i) The borrower, executing agency, and implementing agency asserted that the project road was never fully closed. However, as work progressed, certain stretches of the
project road were closed during construction and re-opened during winter months. In those sections where the project road was closed, continued accessibility was ensured through temporary roads which had been provided for use in both sections of the project road of relevance to the resort owner; namely CW1-1 (total length of 37.26 km) and CW1-2 (total length of 45.5 km).

ii) The major issue with the closure of stretches of the project road is that motorists had to use temporary roads surfaced with gravel. Gravel roads present certain design difficulties such as uneven surfaces, and dust which reduces visibility. Despite the contractor's efforts to maintain these temporary roads, they were inconvenient to use. Community feedback obtained during the CRP’s site visit confirmed that motorists experienced considerable difficulties.

iii) **Time period 1.** Between August 2019 and the COVID-19 lockdown in February 2020, the ADB-financed contractor for Section CW1-1 carried out road construction works for a length of 11.5 km in three stretches between Km 0+000 and Km 25+000, while the ADB-financed contractor for Section CW1-2 only worked on a length of 4 km in six stretches between Km 0+000 and Km 27+020. Thus, progress on Section CW1-2 was limited. In Section CW1-1, the first 15 km of temporary road consisted of an existing asphalt-concrete road. However, during this period, visitors to the resort owner’s resort might have experienced difficulty using the remaining graveled temporary roads in Section CW1-1 (for about a contiguous 10 km stretch between Km 15+000 and Km 25+000) and within Section CW1-2 (for six non-contiguous stretches between Km 0+000 and Km 27+020) due to the ADB-financed project activities.

iv) **Time period 2.** Between February 2020 and November 2020, Mongolia experienced a COVID-19 lockdown and restrictions which included a ban on international tourist arrivals and travel constraints for domestic tourists. Road traffic was limited during this period. However, by November 2020, Section CW1-1 of the project road was reopened for the winter months, and the 4 km stretch of CW1-2 was also usable following remedial work by the CW1-3 contractor in September-October 2020. Therefore, during this period, resort visitors had access to the project road in Sections CW1-1/2.

v) **Time period 3.** Between November 2020 and September 2021, no construction works were carried out in Section CW1-2 as the replacement ADB-financed contractor had not yet been mobilized following the termination of the first CW1-2 contractor’s contract. The CRP is satisfied on balance that the project road was navigable and that resort visitors did not need to make use of temporary roads in section CW1-2 during this period. From March 2021, the EBRD-financed contractor was mobilized to work on Section CW1-2. It is possible that temporary roads were in use during this contractor’s work over this time period, but this was not part of the ADB project activities. The CRP notes that a reduction in the number of resort visitors during this period was also consistent with COVID-19 lockdown and restrictions.

vi) **Time period 4.** Between September 2021 and October 2022, the new ADB-financed contractor on Section CW1-2 undertook construction works during the construction season (April-October). During this period, resort visitors had to use the temporary roads and may have experienced inconvenience. The prevailing COVID-19 lockdown and restrictions could also have imposed constraints on potential resort visitors. However, from February 2022, the COVID-19 lockdown and restrictions were significantly lifted.
vii) **Time period 5**: Post-October 2022, Sections CW1-1 and CW1-2 of the main project road were fully navigable. Therefore, there was no need to use temporary roads. Moreover, there were no COVID-19 restrictions during this period.

viii) **Winter periods of 2020 and 2021.** According to MRTD and the supervision consultant, the main project road was usable during the winter months (November-March). While the CRP heard conflicting evidence on this, it is of the view on balance that winter resort visitors would not have faced inconvenience as a direct result of the ADB-financed project activities during this period.

ix) A review of the resort's Q4 income/revenue statement, which the resort owner shared with the CRP, revealed that there was no significant difference between the revenue in FY2018 and FY2019. However, there was a significant reduction in FY2020 and FY2021. While the resort owner had made a major investment in the resort during 2019, financed by a loan, which might have been expected to generate an uptick in revenue during FY2019, the income/revenue statement taken alone does not tend to support the resort owner's claim that ADB-financed project activities impacted adversely on income/revenue in FY2019. The significant reduction occurred after the COVID-19 lockdown and restrictions were implemented.

x) In discussion with the CRP, the resort owner acknowledged that both construction activities and the COVID-19 lockdown could have had adverse impacts on resort income/revenue. A Report on **Impacts of the Pandemic to Businesses in the Tourism Sector** prepared by the Ministry of Environment and Tourism, Tourism Development Center, Mongolian National Chamber of Commerce and Industry and Tourism Education and Development Association, which was provided to the CRP by ADB Management and MRTD, noted that the average decrease in revenue of businesses in the sector in 2020-2021 was 76%. The largest decrease was accounted for by the camps/resorts subsector which lost 84%. The CRP discussions with the Ministry of Environment and Tourism confirmed this.

xi) The resort owner shared an emailed letter from a domestic client who had canceled their reservation at the resort in June 2022 citing staff safety risks during the trip to and from the camp due to the UBD project road construction activities. However, other reasons for the cancellation were also mentioned in the letter. The resort owner did not provide additional written evidence of existing reservations being cancelled as a result of the project road rehabilitation. As explained by the resort owner, the CRP notes that only existing reservations could be cancelled, and that if potential guests failed to make new reservations for reasons connected either to the COVID-19 pandemic or to the road construction, this would not generate written evidence of guests’ reasons for cancellations.

xii) Based on information collected and analyzed from the complainants and other community members, as well as media coverage, the CRP is satisfied that ADB-financed project activities, particularly the use of temporary roads, contributed to the inconveniences that resort visitors would have encountered between August 2019 and October 2022. However, besides the ADB-financed contractor, an EBRD-financed

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contractor has also been working in parallel on the project road since March 2021. In addition, the pandemic has generated adverse impacts on businesses in the tourism sector. Since there are multiple contributing factors to the resort’s income/revenue losses, the CRP is not able to determine whether the direct and material harm caused to the complainant was totally or partially caused by ADB’s noncompliance. In any case, in accordance with para. 187 read with footnote 46 of the AMP, the CRP is not permitted to make findings in this situation.

27. Farmer: Turning next to the farmer, the CRP was able to confirm the substantive content of the issues raised by the complainant through in-person discussion during its site visit in July 2023. While the farmer’s complaint regarding blockage of the access road to her property has since been resolved through removal of the blockage, other issues raised in her complaint have not been addressed to her satisfaction. The CRP notes the following:

i) The complainant moved to her present farm location in January 2021. During the winter months, no construction work was carried out. The EBRD-financed contractor was mobilized in March 2021 and the ADB-financed contractor mobilized in September 2021. The ADB-financed contractor completed the rehabilitation of the original road by October 2022.

ii) During its mission, the CRP heard that MRTD and the supervision consultants divided the responsibility for the temporary roads in section CW1-2 between the two contractors. The CRP also saw supporting internal documentation recording the division of responsibility. It appears based on information received from MRTD and the supervision consultant under the ADB project that with effect from March 2021, when the EBRD-financed contractor was mobilized, working initially on the second part of the CW1-2 section of the road, the EBRD-financed contractor took responsibility for repair and maintenance (including dust suppression) of the temporary road for the section between Km 22+500 and Km 45+500.

iii) The supervision consultant confirmed that the complainant is located at Km 36, which is in the second half of section CW1-2 (corresponding with the last 22.5 km of the temporary road, from Km 22+500 to Km 45+500), and that the EBRD-financed contractor is responsible for the temporary road in this stretch of section CW1-2.

iv) Discussions with the MRTD PIU revealed that they have been in contact with the farmer complainant and are addressing a number of the concerns raised. The quarry activities have now ceased, the access road blockage has been removed, and plans are underway to provide a new access point to the main road in a new nearby location.

v) In discussion with the CRP, the supervision consultant informed the CRP that both the blockage of the access road and the quarry activities raised by the farmer are the EBRD-financed contractor's responsibility. Notwithstanding this, the CRP notes that both the ADB project team and the supervision consultant coordinated with MRTD and the EBRD-financed contractor to address these issues. This indicates that the ADB project team is actively engaged with the second half of section CW1-2, where the complainant lives, even though the direct impacts due to the temporary roads fall within the responsibility of the EBRD-financed contractor. Furthermore, the ADB project team's periodic environmental monitoring report as well as internal documents recording ADB’s monitoring and supervision activities cover the entire Section CW 1-2, confirming that ADB maintains broader oversight.
28. Based on the information provided, for purposes of eligibility assessment the CRP accepts the farmer’s account of the adverse impacts caused by dust from the EBRD-financed contractor’s quarry and the temporary road, and their consequences for the farmer’s livelihood. However, it is important to note that the management of the relevant stretch of temporary road was at relevant times the responsibility of the EBRD-financed contractor and not part of the ADB project activities.

29. Considering this analysis mentioned above, the issues raised by the farmer must be excluded in accordance with para. 148 (i) of the AMP. This provides that for the purpose of compliance review, complaints "relating to actions that are the responsibility of other parties" are excluded from eligibility. The information gathered by the CRP shows that the actions complained of by the farmer are the responsibility of EBRD-financed not ADB-financed parties.

30. For the purposes of eligibility for a compliance review, para. 138 (i) of the AMP provides that “complaints may be filed by (i) any group of two or more people in a borrowing country where the ADB-assisted project is located...... who are directly, materially and adversely affected”. The CRP is satisfied based on the evidence available to it during eligibility assessment that the farmer has been materially adversely affected by construction activities in the project area but is not satisfied that she has been directly and materially adversely affected by the ADB-financed project. She is an ‘affected person’ for purposes of the ADB-financed project but not a ‘directly and materially adversely affected person’ for purposes of the harm that is the subject of her complaint, which arises through the EBRD-financed project.

31. The CRP concludes that in light of its finding on the farmer’s complaint under para. 148(i), the complaint in its entirety is excluded from eligibility. It has not been brought by two or more individuals who are directly and materially adversely affected by an ADB-assisted project.

32. While there is no need for the CRP to consider the remaining eligibility criteria and exclusions outlined in para. 179 of the AMP, in light of the outcomes of its fact-finding during eligibility assessment, the CRP nonetheless offers analysis of areas where the issues raised in the complaint indicate that there may be preliminary evidence of ADB noncompliance with relevant operational policies and procedures.

33. The issues brought to the CRP by the complainants raise concerns about the project’s impacts on the livelihoods and incomes of affected people; the impacts of the temporary project roads and the steps taken to mitigate adverse impacts; and the effectiveness of the GRM. The compliance review process focuses on ADB’s compliance. Therefore, the CRP’s eligibility assessment process has sought to identify whether there is preliminary evidence of ADB noncompliance with relevant operational policies and procedures in these three areas of concern.

C. Areas of Potential ADB Noncompliance

34. We summarize our findings below to inform the exercise of ADB’s monitoring and supervision responsibilities during the remainder of project implementation and enable effective organizational learning.

35. Temporary Roads - Project Preparation. MRTD contractors had built new temporary roads on state-owned land for use by ADB-financed project contractors and other road users for project implementation. There is no evidence that ADB sought to ensure that the IEEs addressed and minimized any negative effects caused by these temporary roads.
36. For eligibility assessment, the CRP considers that the impacts and associated risks were within the project's area of influence as per the Safeguard Policy Statement (2009) (SPS) Environmental Safeguard, Appendix 1, para. 6 (also reflected in Principle 2). It considers that the temporary roads can be classified as either 'related facilities' or 'associated facilities' under para. 6.

37. Considering that the temporary roads were already accessible for project use at the beginning of project implementation, there is also a plausible argument that they can be classified as 'existing activities or facilities.' According to SPS Appendix 1, para. 10, environmental audits are necessary when the project involves such existing activities or facilities. However, the IEEs and subsequent project documents do not mention any such audit.

38. The CRP concludes that there is preliminary evidence indicating that ADB did not comply with para. 56 of the SPS in relation to the assessment of risks and impacts arising from temporary roads. Para. 56 mandates ADB to ensure, through diligence and review that (i) all significant social and environmental impacts and risks associated with a project are identified; and (ii) that effective measures to address the adverse impacts are incorporated into safeguard plans and project design.

39. Temporary Roads - Project Implementation. An internal record of an ADB mission in November 2019 noted that unsurfaced temporary roads had caused dust clouds, resulting in traffic accidents and negatively impacting nearby plantations. To address these issues, a 30cm layer of gravel was applied to the surface of the unpaved temporary roads, with work on this completed in August 2019. ADB agreed for the borrower to use project finance for this purpose, as stated in the Management Response (para. 38). However, even with the gravel surface, airborne dust was still generated from these temporary roads, necessitating significant attention during project implementation.

40. The CRP notes that the responsibility to maintain the temporary roads was included in the contracts of ADB-financed contractors for the relevant road sections. The CRP reviewed two contracts specifically for the CW1-2 section and observed that the contract allocated a specific amount for this purpose.

41. During site visits conducted in July 2023, the CRP received reports from community members near the project road that the use of temporary roads during project implementation resulted in safety hazards leading to traffic accidents and inconvenience for road users. The CRP also heard accounts of vehicle damage caused by the poor surface conditions of the temporary roads. Evaluating aggregated accident statistics from the Traffic Police during the construction period referenced in the Management Response (para. 41), the CRP found them inconclusive since the location and causes of accidents were not broken down.

42. Despite the efforts made by ADB-financed contractors to maintain the gravel temporary roads in sections CW1-1 and CW1-2 (including watering), the surface conditions of these roads often fell short of desirable standards. The CRP acknowledges that ADB's internal project monitoring and supervision records during project implementation reflect the ADB project team's awareness of the issues associated with dust from the temporary roads. These internal documents demonstrate that the ADB project team identified the problem as early as their November 2019 mission, continued to monitor it during subsequent missions, documented risks, and provided feedback to the PIU and MRTD, suggesting additional or enhanced mitigation measures. Temporary Road Safety Plans and, in 2023, a Temporary Roads Due Diligence Report, were prepared to guide improved implementation. The CRP concludes that it does not
have evidence of ADB noncompliance regarding monitoring and supervision of environmental and safety aspects of the condition of temporary roads during project implementation.

43. **Social and Community Livelihood Impacts - Project Preparation.** The two complainants indicate that the project has adversely affected their livelihoods. To understand such impacts, a social impact assessment is usually done as part of the environmental assessment during preparation. This will include developing a social baseline scenario; conducting an impact assessment to determine the nature, type and extent of livelihood impacts; and having a management plan to address these impacts.

44. The IEEs contain references to baseline socioeconomic surveys where 120 “herder households” who “reside along the UBD road corridor” participated. The main survey questions focused “on baseline livelihood conditions and their concern on livelihood and environmental conditions.” The CRP is not satisfied based on its initial review that the livelihoods of households who were not herders and who did not live ‘along’ the road corridor were adequately considered.

45. The impact assessment should have been conducted to meet the requirements of Principles 2 and 4 of the SPS environment safeguard. Furthermore, Appendix 1 para 5, taken in conjunction with para. 56 of the SPS, clearly provides that ADB had a responsibility to ensure that environmental assessment conducted for the project considered “all potential impacts and risks on livelihoods through the environmental media.” With the temporary roads omitted from the IEEs, ADB was not in a position to ensure that the environmental assessment adequately met this requirement, nor to ensure that adequate measures to mitigate adverse impacts were included in the EMP. The CRP considers that there is preliminary evidence that ADB did not meet its responsibility under the SPS as livelihood impacts due to the temporary roads have not been considered.

46. The social development actions formulated for the project fail to demonstrate an understanding of the potential adverse impacts on incomes and livelihoods. The Social Development and Gender Action Plan (SDGAP) from June 2018 pertains to the entire 311 km of road rehabilitation covered by the initial project. It allocates a budget of $30,000 to support local development initiatives, specifically “training on setting up small businesses, income generation methods alongside the road corridor”. A subsequent Social Development Action Plan, prepared during ADB’s project preparation includes action on ‘support for livelihood initiatives’ targeting “Local women and men from poor households including small business owners”, with a total budget of $45,000.

47. **Social and Community Livelihood Impacts - Project Implementation.** The ADB project team recognized the adverse impacts of temporary roads on affected individuals at an early stage. A temporary roads due diligence report from May 2023 specifically highlighted the presence of excessive dust and numerous complaints from local residents in Section CW 1-2, the section closest to the two complainants. Additionally, adverse effects on farms were noted in another section of the road. A publicly available SDGAP monitoring report dated December 2022 noted, with specific reference to Sections CW1-1 and CW1-4, that “[i]n all nearest areas of road

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alignment… clouds of dust destroy soil, vegetables, and grassland as well as limiting visible environment”; and added that “Based on initial observation, [the supervision consultant] presumed that these would affect traffic safety, income of local enterprises including groceries, restaurants, resorts, and vegetable farms during the road construction period.” Despite these findings and the likely amplification of income and livelihood impacts due to delays caused by the COVID-19 pandemic, the CRP has no evidence that ADB took measures to ensure the development of a management plan for assessing and addressing the impacts of construction and temporary road use on the incomes and livelihoods of affected individuals.

48. A May 2017 Resettlement Framework prepared to guide any resettlement plan later prepared for the project sets out entitlements to compensation, income restoration, and relocation. Para. 37 establishes principles for payment of compensation which extend to “any business loss due to … construction activities by the Project.” A Resettlement Due Diligence Report was prepared in March 2022 to assess whether there were any involuntary resettlement (IR) impacts. While the report states that affected persons include: “…(ii) persons whose agricultural land or other productive assets such as trees or crops are Affected” and “(iii) persons whose businesses are Affected and who might experience loss of income due to the project impact”, it concluded that there would be no land acquisition or resettlement impacts for the project because the work would be conducted within the existing right-of-way (ROW). Thus, as confirmed in the Management Response (para. 29), no resettlement plans have been prepared to date. The compensation principles set out in para. 37 of the Resettlement Framework were not triggered even though not all of them concern involuntary resettlement.

49. The CRP has no evidence to suggest that ADB ensured that the Resettlement Due Diligence Report adequately encompassed and addressed the income and livelihood impacts resulting from temporary road use. The CRP concludes that there is preliminary evidence of ADB’s noncompliance with its monitoring and supervision responsibilities outlined in paras. 57 and 58 of the SPS concerning the impacts of the project on the incomes and livelihoods of affected people.

50. **Grievance Redress Mechanism (GRM).** The SPS environmental safeguard requires the borrower to establish a GRM to address the concerns and grievances of affected individuals regarding the project’s environmental performance. The IEEs incorporated the requirements for the GRM, which were subsequently included in the Project Administration Manual (PAM, April 2019). The Management Response asserts that the GRM became operational in July 2019 (para. 44). However, an internal report from an ADB safeguards mission in October 2022 noted that the GRM had only recently been established in response to two complaints received by ADB’s OSPF. At that time, ADB also acknowledged that the GRM differed from the requirements in the PAM, as there was no comprehensive register of received complaints and no public notice to inform community members about how or whom to contact if they wished to file a complaint. Discussions between the CRP and the PIU in July 2023 indicated that the process of streamlining the GRM is still ongoing.

51. The 2019-2020 Environmental Monitoring Report (EMR) documented a total of 21 complaints, without much detail. Surprisingly, the subsequent 2021 EMR did not mention how

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these complaints had been resolved. ADB’s Management Response (para. 44) states that during the field mission in February 2022, ADB "explained and confirmed" the GRM “with local stakeholders on site during the ADB field mission in February 2022.” However, the CRP has not been able to access a written record of this mission.

52. Based on the available information, the CRP does not have preliminary evidence that ADB’s monitoring and supervision of the GRM was noncompliant with its responsibilities. However, the CRP suggests that the project team take concerted measures to further strengthen the GRM during the remaining project implementation period. The CRP expresses particular concern over credible accounts received during its June/July 2023 mission which indicated that affected individuals were verbally discouraged from lodging complaints through the GRM as recently as 2022. This issue should be urgently addressed.

VI. CONCLUSION

53. The CRP has determined that the complaint does not meet the requirements for eligibility for compliance review under para. 179 of the AMP. It falls within the exclusion established under para. 148 (i) of the AMP and does not meet the requirement of para. 138 (i) of the AMP.

Elisea Gozun
Chair, Compliance Review Panel

Halina Ward
Member, Compliance Review Panel

Vaideeswaran Sankaran
Member, Compliance Review Panel
REQUEST FOR COMPLIANCE REVIEW

From: Dugan Khad Travel <dugankhadtravel@yahoo.com>
Sent: Friday, April 21, 2023 11:19 AM
To: Complaint Receiving Officer <amcro@adb.org>
Cc: Annelie Reyes Gonzales-de Jesus <argonzalezdejesus.consultant@adb.org>
Subject: Re: Inquiry from ADB.org

We are not satisfied with EARD/Mongolia resident mission so we want to file Compliance review panel.

Last time I contact with person in charge of our case at our location but he is not knowledgeable about this complaint filing, procedure and ADB. So I asked him to help us to submit our complaint to ADB office in Ulaanbaatar but he said he is an assistant of parliament member of Mongolia, so he will submit our complaint to this member not ADB. But ADB office in Mongolia asks us to submit him. So we believe the procedure is not clear at EARD/Mongolia mission office.
We do not wish to contact any officer in Mongolia we would like to go with Compliance review.

Sent from Yahoo Mail for iPhone

On Friday, April 21, 2023, 10:37 AM, Complaint Receiving Officer <amcro@adb.org> wrote:

Dear Madam,

I acknowledge receipt of your complaint below as well as your email on even date which was also sent to ADB East Asia Regional Department (EARD) and Office of the Special Project Facilitator (OSPF) staff.

Based on our records, your previous complaint, SPF-2022-06-01-0126, regarding this matter was deemed ineligible by the SPF and forwarded to the EARD project team, as the Accountability Mechanism (AM) is a last resort mechanism and the EARD project team should have a chance to resolve the issue first. As such, the SPF recommended that you and your co-complainant continue to engage with EARD/Mongolia Resident Mission (MNRM) and further advised that should you be dissatisfied with the actions taken to resolve the complaint, you can bring your complaint back to the AM.

Given this, and in light of your email below, if you and your co-complainant in SPF-2022-06-01-0126 now wish to bring your complaint back to the AM, kindly:

1. specify your choice of AM function (problem-solving with the SPF or compliance review with the Compliance Review Panel); and

2. provide information on further efforts made by the EARD/MNRM, project authorities and complainants to resolve the issue.

Upon receipt of the above requested information, I will proceed with the processing of your complaint.

For your ease of reference and review, our AM Information Packet and AM Policy 2012 (please refer to Chapter 5) are again attached.
Regards,

Annelle

Annelle R. Gonzales-de Jesus
Complaint Receiving Officer
Accountability Mechanism
Asian Development Bank
amcro@adb.org

From: default <webunit@adb.org>
Sent: Wednesday, April 19, 2023 9:03 PM
To: Complaint Receiving Officer <amcro@adb.org>
Subject: Inquiry from ADB.org

Date submitted: Wed, 04/19/2023 - 21:03
Recipient: amcro@adb.org
First name: Munkhkhishig
Last name: Altangerel
Affiliation: Private sector enterprise/business
Other affiliation:
Email: dugankhadtravel@yahoo.com
Message: Due to ADB's lack of accountability and management failure on Ulaanbaatar Darkhan road project, about 40 people died and hundreds of families and businesses go bankrupt.

The project called ULAANBAATAR DARKHAN ROAD extension construction being implemented with ADB’s financing, first signed on 18th of June 2019 and planned to finish the same year. Project number is 48186-005. The aim of the loan is the expansion of a 202 km road from Ulaanbaatar to Darkhan City, the country's second-largest city. This road is important artery of the Mongolian road network and only economic corridor of China-Mongolia-Russia. The project's goal was to increase the road capacity for domestic and international journeys and improve road safety. But the project has not completed even today and lots of lives and businesses are suffering from incomplete road.

We are the biggest travel company in Tuv province located in between Ulaanbaatar and Darkhan city road on 108km. Only from Ulaanbaatar city to our resort in 108km, there are 30 tourist camps, 6 livestock farms, 6 restaurants, 1 zoo, more than 100 agricultural companies and thousands of households located through the road.

The condition of the existing road in 2019 was good with only required few pothole filling, but without prior notice on August 2019, suddenly the rehabilitation of the road including removal of existing paved road started. Until that day we run the business normally. From that month, we loose our 70% of our income and we continue loose our income in 2020, 2021 by 90%

We had made 1 million $ investment on our resort in 2018 with bank loan and when we had just started pay back the loan to the bank. Unfortunately, the road to our resort is destroyed and we had no way to pay back the loan for last three years. Now our accumulated bank interest is 100,000$ and loan itself 1 million$. Based on income we earned in year 2018, we lost 200 million$ every year since then. We are nearly bankrupt. We had sold everything we had. Even our resort is on sale now but no one is interested to buy with this bad road condition. We are in tourism sector for last 23 years but we have never faced such big failure that does not depend on us.

ADB is not working on the social and environmental impact of this project or failure to analyze distractions have made to our community. ADB is complying its own policy of commitment to promoting 'environmentally sound and sustainable development'. It says that bank believes that environmental and social sustainability is a fundamental aspect of achieving outcomes consistent with its transition mandate and recognizes that projects that foster environmental and social sustainability rank among the highest priorities of its activities.
We have made lot of complaints and requested the certain information from the ministry of road and transport development of Mongolia. But no one is doing their job.

Please take responsibility on this project and compensate us by whoever is in charge

Dugan Khad Travel LLC
Branch manager A Munkhkhishig
Office: 976-70111815
Mobile: 976-99011815

Referrer: https://www.adb.org/node/632461

CONFIDENTIAL. This information is accessible to specific named ADB Management and/or staff. It may not be shared with other ADB staff or external parties without appropriate permission.
Asian Development Bank (ADB), Accountability Mechanism, Complaint Form
(Add rows or pages, if needed)

A. Choice of function - problem solving or compliance review (Choose one below)

☐ Special Project Facilitator for problem solving (Assists people who are directly and materially harmed by specific problems caused, or is likely to be caused, by ADB-assisted projects through informal, flexible, and consensus-based methods with the consent and participation of all parties concerned)

☐ Compliance Review Panel for compliance review (Investigates alleged noncompliance by ADB with its operational policies and procedures in any ADB-assisted project in the course of the formulation, processing, or implementation of the project that directly, materially, and adversely affects, or is likely to affect, local people, as well as monitors the implementation of remedial action relates to the harm or likely harm caused by noncompliance)

B. Confidentiality

Do you want your identities to be kept confidential? ☐ Yes ☐ No

C. Complainants (Anonymous complaints will not be accepted. There must be at least two project-affected complainants.)

<table>
<thead>
<tr>
<th>Name and designation (Mr., Ms., Mrs.)</th>
<th>Signature</th>
<th>Position/Organization (if any)</th>
<th>Mailing Address</th>
<th>Telephone number (landline/mobile)</th>
<th>E-mail address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dugan Khad Travel</td>
<td></td>
<td>Branch Manager</td>
<td>Bayanzurkhuu district, Samang Plaza, 7th floor, Ulaanbaatar city, Mongolia</td>
<td>976-76111815 976-99011815</td>
<td><a href="mailto:dugankhadtravel@yahoo.com">dugankhadtravel@yahoo.com</a></td>
</tr>
<tr>
<td>2.</td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

Authorized Representative or Assistant (if any). (Information regarding the representatives, or persons assisting complainants in filing the complaint, will be disclosed, except when they are also complainants and they request confidentiality.)

<table>
<thead>
<tr>
<th>Complainant represented</th>
<th>Name and designation (Mr., Ms., Mrs.)</th>
<th>Signature</th>
<th>Position/Organization (if any)</th>
<th>Mailing Address</th>
<th>Telephone number (landline/mobile)</th>
<th>E-mail address</th>
</tr>
</thead>
</table>
Appendix 1

D. Project

<table>
<thead>
<tr>
<th>Name</th>
<th>Ulaanbaatar-Darkhan road 200km ULAANBAATAR DARKHAN ROAD extension construction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Location</td>
<td>Ulaanbaatar city to Darkhan city in Mongolia</td>
</tr>
<tr>
<td>Brief description</td>
<td>The project called ULAANBAATAR DARKHAN ROAD extension construction being implemented with ADB’s financing, first signed on 18th of June 2019 and planned to finish the same year.</td>
</tr>
</tbody>
</table>

E. Complaint:

What direct and material harm has the ADB-assisted project caused, or will likely cause, to the complainants? The project’s goal was to increase the road capacity for domestic and international journeys and improve road safety. But the project has not completed even today and lots of lives and businesses are suffering from incomplete road.

We are the biggest travel company in Tuv province located in between Ulaanbaatar and Darkhan city road on 108km. Only from Ulaanbaatar city to our resort in 108km, there are 30 tourist camps, 6 livestock farms, 6 restaurants, 1 zoo, more than 100 agricultural companies and thousands of households located through the road.

The condition of the existing road in 2019 was good with only required few pothole filling, but without prior notice on August 2020, suddenly the rehabilitation of the road including removal of existing paved road started. Until that day we run the business normally. From that month, we lose our 70% of our income and we continue lose our income in 2020, 2021 by 90%.

We had made 1 million $ investment on our resort in 2018 with bank loan and when we had just started pay back the loan to the bank. Unfortunately, the road to our resort is destroyed and we had no way to pay back the loan for last three years. Now our accumulated bank interest is 100,000$ and loan itself 1 million $. Based on income we earned in year 2018, we lost 200 million $ every year since then. We are nearly bankrupt. We had sold everything we had. Even our resort is on sale now but no one is interested to buy with this bad road condition. We are in tourism sector for last 23 years but we have never faced such big failure that does not depend on us.

Have the complainants made prior efforts to solve the problem(s) and issue(s) with the ADB operations department including Resident Mission concerned?

☐ Yes. If YES, please provide the following: when, how, by whom, and with whom the efforts were made. Please describe any response the complainants may have received from or any actions taken by ADB.

We have made lots of complaints and requested the certain information from the ministry of road and transport development of Mongolia. But no one is in charge of this uncertain situation and even today the officials have no idea about completion of this project’s time.

☐ No

F. Optional Information

1. What is the complainants’ desired outcome or remedy for the complaint?

We want compensation on incomes we lost from August 2019 to till when we can use the road and welcome our guest again.
2. Anything else you would like to add?
ADB is not working on the social and environmental impact of this project or failure to analyze distractions have made to our community. ADB is complying its own policy of commitment to promoting "environmentally sound and sustainable development". It says that bank believes that environmental and social sustainability is a fundamental aspect of achieving outcomes consistent with its transition mandate and recognizes that projects that foster environmental and social sustainability rank among the highest priorities of its activities.

Name of the person who completed this form: Munchkhaisig A.

Signature: [Signature]
Date: [Date]

Please send the complaint, by mail, fax, e-mail, or hand delivery, or through any ADB Resident Mission, to the following:

Complaint Receiving Officer (CRO), Accountability Mechanism
ADB Headquarters, 6 ADB Avenue, Mandaluyong City 1550, Philippines,
Telephone number: +63-2-6524444 local 705009, Fax: +63-2-6562086,
E-mail: amro@adb.org
From: Munu Munu <munu1815@yahoo.com>
Sent: Friday, April 28, 2023 4:36 PM
To: Annelle Reyes Gonzales-de Jesus <argonzalesdejesus.consultant@adb.org>; Complaint Receiving Officer <amcro@adb.org>
Subject: Complaints

Hello
Mrs Lkhanaajav Lkhagvajav also choose compliance review choice for her complaint also.
Her phone number is 976-99054215

Regards
Munu

Sent from my iPhone
ADB MANAGEMENT RESPONSE

Memorandum
East Asia Department
Office of the Director General

14 June 2023

To: Elisea G. Gozun
Chair, Compliance Review Panel and concurrently Head, Office of the
Compliance Review Panel

Through: Ahmed M. Saeed
Vice-President (Operations 2)

From: M. Teresa Kho
Director General, EARD

Subject: MON (48185-005): Regional Road Development and Maintenance Project
—Management Response

I. Introduction

1. Through a memorandum ("CRP Memo") of the Chair of the Compliance Review Panel
("CRP") dated 15 May 2023 (Attachment 1), the CRP requested Management’s Response
regarding the request for compliance review forwarded by the Complaint Receiving Officer
("CRO") to the CRP on 8 May 2023 in connection with the MON: Regional Road Development
and Maintenance Project ("Project").

2. The Project. The Project is comprised of the original project and a subsequent additional
financing. The original project was approved on 29 June 2018, with a loan of $60 million from
regular ordinary capital resources ("OCR") (L3687). The loan agreement for the original project
was signed on 23 July 2018 and declared effective on 21 August 2018. The impact of the original
project is inclusive economic growth promoted by enhanced local, regional, and international
connectivity in Mongolia and the Project outcome is improved efficiency and safety of road
transport within the Project area and between countries. The original project’s outputs are:
improved road asset management capacity; improved road condition; and improved road safety.
In relation to improvements to the condition of the Ulaanbaatar to Darkhan road ("UBD Road"),
the improvement works include pavement treatment and widening of carriageways and shoulders
within the existing right-of-way ("ROW"). The expected completion date for the original project
was 31 December 2025 and, as per the original design and monitoring framework ("DMF") the
total road improvement works under the Project, including the UBD Road, were anticipated to
be completed by the third quarter (Q3) of 2022.

3. The additional financing was approved on 20 May 2019 with a loan of $58.5 million from
regular OCR (L3786) and a grant of $1.5 million from the high-level technology fund ("HTLF")
(G0644). The loan and grant agreements for the additional financing were signed on 2 October
2019 and declared effective on 5 November 2019. The impact and outcome of the Project
remained unchanged. The Project outputs were updated to include, among other things,

1 ADB. Mongolia: Regional Road Development and Maintenance Project.

INTERNAL. This information is accessible to ADB Management and staff. It may be shared outside ADB with appropriate
permission.
enhancements to the safety and flood resilience of the UBD Road. The updated expected
completion date for the Project is 31 March 2026 and, as per the updated DMF, the entire road
improvement works under the Project, including the UBD Road, are anticipated to be completed
by Q3 2024. The UBD Road improvement works have been procured under five lots, each for
improvement works on a particular linear section of the UBD Road. A map of each such road
section being rehabilitated under each respective lot is presented at Attachment 4.

4. The Project is categorized B for environment impacts, B for involuntary resettlement
impacts and C for indigenous peoples impacts. The Project executing agency ("EA") is the Ministry
of Road and Transport Development ("MRTD") of Mongolia, and the implementing agency ("IA")
is the Road Policy Implementation and Coordination Department of MRTD.

5. The Complaint submitted to CRP and forwarded for Management Review. The
complaint attached to the CRP Memo ("Complaint") is comprised of various emails, photographs
and other documents. The substantive complaint is set out in writing in the email from Ms.
Munkhtserig Altangerel on behalf of Dugan Khad Travel LLC ("Complainant") to the CRO on 19
April 2023 ("19 April Email"), which covers three main categories of concerns related to (i) lack of
inclusion of plans for management and mitigation of environmental and social issues; (ii) absence
of monitoring by ADB of the Project; and (iii) dissatisfaction to complaints received under the Project.
On this basis, the Complaint alleges harm in the form of traffic accidents along the UBD Road,
and inaccessibility of the Complainant's resort, which is alleged to have resulted in loss of
revenues. The Complaint requests compensation for the alleged harm to the Complainant’s resort.

6. As also described in further detail in Section VI below, the Complaint includes attachments
wherein the Complainant provided, at the CRO’s request, additional information on efforts made
to resolve the problem through engagement with the East Asia Department ("EARD") and the
Mongolia Resident Mission ("MNRM"), considering the determination on 23 June 2022 by the
Office of the Special Project Facilitator ("OSPF") that her complaint was deemed ineligible for the
problem solving function of the Accountability Mechanism as good faith efforts to resolve the
issues raised had not been exhausted.

7. The Individual. The Complaint includes a communication dated 28 April 2023 in which a
second individual is described as “choosing the compliance review choice for her complaint also”
(the "Individual"). The nature and specifics of the Individual’s complaints are not provided in the
Complaint, although certain issues have been raised by the Individual which are being addressed
through the Project-level grievance redress mechanism ("GRM"). In addition, the Complaint is not
accompanied by concurrence or other written communication from the Individual.

8. Despite this lack of clarity as to whether the Complaint is submitted by the Individual for
purposes of the compliance review function under the AMP (see para. 9), the materials provided
as attachments to the Complaint indicate that the Individual was a co-complainant under the
complaint submitted by the Complainant on 31 March 2022 to the CRO, which as noted above
was subsequently reviewed and deemed ineligible by the OSPF under the problem solving
function. Following this decision regarding ineligibility under the problem solving function, as
mentioned above, the Individual raised various complaints through the Project-level GRM, which
have either been addressed or are still in the process of being addressed by the EA and IA (see
Section VI). The specific concerns of the Individual expressed through the GRM pertained to (i)
access to her farm; (ii) dust impacts on farm productivity; and (iii) broken vehicle windows. These
concerns are not included in the Complaint submitted for compliance review.
9. The Accountability Mechanism Policy ("AMP") stipulates that the CRP compliance review report "will focus on the specific complaint" (para. 185). Consequently, as described in further detail in Sections IV and VI, it is suggested that pursuant to the requirements of the AMP, the eligibility determination should focus on the Complaint, which does not include issues or allegations made by the Individual. However, without prejudice to this point, this Management Response addresses the good faith efforts made to address the issues raised by the Individual through the GRM.

10. EBRD Project and Simultaneous Separate Complaint. Separately from the ADB Project, which finances improvements of the existing UBD Road along the existing ROW, the European Bank for Reconstruction and Development ("EBRD") approved on 11 December 2019 and 23 February 2022 (additional finance) a project which finances the expansion (widening) of 202 kilometers (km) of the UBD Road to increase its width from two to four lanes ("EBRD Project"). The EBRD Project entails land acquisition and more comprehensive construction activities outside the existing ROW. Though the EA and IA are common to both ADB Project and EBRD Project, separate project implementation units ("PIUs") are responsible for the day-to-day implementation of each project. The EBRD Project's civil works commenced in March 2021, and its overall project progress is 43% as of May 2023. Depending on the position along the existing UBD Road, the two additional lanes being constructed under the EBRD Project are either (i) physically together on one side of the existing UBD Road, or (ii) split, with one new lane on both sides of the existing UBD Road (see Attachment 4). The Complainant submitted their separate complaint to EBRD's Independent Project Accountability Mechanism ("IPAM") on 31 March 2022. The complaint submitted to EBRD is generally identical to the complaint submitted to ADB's CRO on the same day.

11. The elements of the Complaint are addressed in Sections III-VI below and in further detail in Attachment 2 to this Management Response. A detailed description of compliance with the relevant ADB policies and procedures, specifically Safeguards Requirements 1: Environment; Safeguards Requirements 2: Involuntary Resettlement of the Safeguard Policy Statement ("SPS"); and its Operations Manual Section F1 is presented as Attachment 3 to this Management Response.

12. As described in Section III, ADB has complied with the relevant policies and procedures as required under paragraph 178 of the AMP and considers that the complaint should be properly excluded from compliance review by the CRP as per paragraphs 179-180 of the AMP on the grounds that:

(i) there is no evidence of ADB's noncompliance with its operational policies and procedures (Section III of this Management Response);
(ii) the complaint relates to actions that are the responsibility of other parties (Section IV of this Management Response);
(iii) the complaint does not provide evidence that direct and material harm has been caused, or is likely to be caused, by ADB's noncompliance with its operational policies and procedures (Section V of this Management Response);
(iv) good faith efforts to resolve issues with the operations department have not been exhausted (Section VI of this Management Response); and
(v) the complaint is ineligible for CRP review as it has not satisfied the procedural requirements for complaint submission (Section VII of this Management Response). Furthermore, the Complaint's request for monetary damages is not provided through the compliance review function (para. 60).
13. Irrespective of Management’s response regarding the eligibility of the Complaint, Management notes that there is still scope for meaningful engagement to work through the issues raised in the Complaint. The Complaint could therefore be more appropriately addressed through the Project-level GRM.

II. Background

14. The preparatory study for the Project was prepared under ADB technical assistance\(^2\) approved in 2014. This study concluded there was a need to preserve and improve important road sections that link the People’s Republic of China (“PRC”) and Russian Federation through Mongolia’s capital and comprises part of Central Asia Regional Economic Cooperation ("CAREC") Corridor 4B.\(^3\) In particular, a socioeconomic survey found that a large majority of respondents in both Selenge and Darkhan-Uul provinces had identified the poor condition of road infrastructure as the second most pressing local issue. Survey respondents also noted that having an improved road corridor would be an advantage for the development of the soums,\(^4\) support business and social service development, and, through faster and safer transportation, reduce transport costs which would positively impact household budget. In addition, the then-Governor of Sukhbaatar soum of Selenge province had pointed out that the road between Ulaanbaatar and Darkhan is in poor quality and broken at several points, thus necessitating the road rehabilitation works. Based on this assessment, the Project was designed to include rehabilitation of (i) 204.1 km road from Ulaanbaatar to Darkhan; and (ii) 57.56 km road from Arvaikheer to Khuiten Valley.

III. Compliance with ADB Policies and Procedures

15. As described in paragraph 5 above, the Complaint alleges (i) lack of inclusion of plans for management and mitigation of environmental and social issues; (ii) absence of monitoring by ADB of the Project; and (iii) inattention to complaints received under the Project.

16. Paragraph 145 of the AMP provides that “[t]he CRP will examine whether the direct and material harm alleged by the complainants is the result of ADB's failure to follow its operational policies and procedures in the course of formulating, processing, or implementing an ADB-assisted project”. Paragraph 148 (ii) of the AMP further provides that for purposes of compliance review complaints are excluded “that do not involve ADB’s noncompliance with its operational policies and procedures...” As described in this section, ADB complied with its operational policies and procedures in the course of the formulation, processing and implementation of the Project.

A. Project Processing

17. Environment Safeguards. In accordance with the SPS, the Project was screened and categorized as environment category B, based on the physical road improvement works under the Project. In line with the category B classification, an Initial Environmental Examination ("IEE") and Environmental Management Plan ("EMP") were prepared for the Project in accordance with the SPS and Operations Manual ("OM") Section F1/BP (Safeguard Policy Statement) with support from ADB technical assistance (footnote 2). SPS policy principles were adhered to during project preparation of the IEE and EMP, included the application of a screening process to categorize the Project and undertake an assessment commensurate with anticipated risks and impacts (as

\(^2\) TA 6852-MON, Regional Road Development and Maintenance: Project Preparatory Technical Assistance Report.
\(^3\) CAREC Institute, CAREC Transport Corridor 4.
\(^4\) The second level of administrative division below province in Mongolia.
described in Attachment 3). Also, in accordance with the SPS, the IEE and EMP were reviewed and endorsed by ADB, with EARD issuing a Safeguard Policy Compliance Memorandum reflecting the Project's B categorization for environment on 30 June 2017.

18. The IEE identified that during the construction phase, potential risks and impacts were likely to be short-term, readily mitigable and generally associated with noise, dust, soil erosion, and community health and safety. Mitigation measures were identified, including water spraying, use of tarpaulin covers on hauling vehicles, erecting clear signage, and providing advance notification of construction activities to communities. In accordance with the SPS, measures set out in the IEE were included as a part of the EMP, which are required to be complied with by the contractors under the Project’s civil works contracts.

19. In compliance with SPS, the IEE and EMP, which included in their scope improvement works of the UBD Road, were published on ADB's website on 29 May 2018.

20. Community Consultations and Disclosure. In accordance with the SPS, meaningful consultation was conducted in March 2018 by MRTD with 120 herds-people along the Project alignment. Consultation with local herds-people included the use of an opinion survey with households residing along the UBD Road corridor. Additionally, the MRTD held meetings with local community members and local authorities along the Project alignment between March-April 2017. Project related information was made available in Mongolian on MRTD's official website from October 2018.

21. Pursuant to MRTD’s Ministerial order 192 dated 13 June 2019, MRTD organized a media conference at the National Road Transport Center on 15 June 2019. The conference was used to disseminate details relating to the Project commencement date and the requirements for traffic to utilize temporary roads whilst rehabilitation works were ongoing. Information recorded in this conference was further shared through various media channels to enable broader public understanding of Project activities. Furthermore, project information was disclosed through media releases, MRTD website notifications, and follow-up calls were conducted by ADB.

22. As noted above, the IEE and EMP were disclosed on the ADB website in May 2018. The Ministry of Environment and Tourism disclosed the General Environmental Impact Assessment for the Project on 2 January 2019, and the Detailed Environmental Impact Assessment for the Project on 11 June 2019 on its website in Mongolian language.

23. Involuntary Resettlement Safeguards. In accordance with the SPS, due diligence on the Involuntary Resettlement ("IR") safeguard was conducted and the associated impacts and risks were assessed during Project preparation. Due diligence at the project processing stage confirmed that the Project would not involve involuntary resettlement impacts since improvement of the existing 2-lane road would be within the existing UBD Road ROW. It was expected that the road safety improvements under the Project would also not involve involuntary resettlement impacts, given that safety improvements would be in the form of road markings, barriers and guideposts. However, the Project took a precautionary approach and categorized IR safeguard as category B and required development of a Resettlement Framework ("RF") in accordance with the SPS, which was reviewed and endorsed by ADB. The RF identified defined procedures for conducting due diligence and preparation of resettlement plans, as necessary. It also required that the design and implementation of the Project would make every effort to avoid and minimize land acquisition and resettlement impacts, including temporary impacts during construction. The RF was disclosed on the ADB website on 5 June 2017.
24. **Indigenous Peoples Safeguards.** In accordance with the SPS, ADB undertook diligence and screening of potential impacts on ethnic minorities. Based on the determination of the absence of impacts on ethnic communities under the Project, it was classified as category 'C' for the indigenous peoples safeguards.

25. **Gender and Social Aspects.** In accordance with ADB's policies and procedures, poverty, social and gender due diligence was undertaken for the Project. A Combined Social Development and Gender Action Plan was developed and disclosed on the ADB website in June 2018.

   **B. Project Implementation**

26. **Implementation Progress.** The UBD Road rehabilitation works commenced under 5 contract packages in June 2019 (refer to Attachment 4) and are continuing with 80 percent overall progress as of 28 May 2023.\(^5\) The cumulative Project progress in 2019, 2020, 2021, 2022 and 2023 (as of 28 May 2023) was recorded as 24.6 percent, 48.1 percent, 59.1 percent, 75.8 percent, and 80.0 percent respectively.

27. **Monitoring and consultations.** In accordance with the SPS, ADB undertook monitoring and supervision of the implementation of safeguard measures and safeguard plans, and ensured MRTD complied with requirements in submission of safeguard monitoring reports.

28. These requirements were complemented by review missions undertaken by ADB, which included a focus on safeguards-related issues. A review mission was conducted in November 2019, ADB fielded a mission in September 2020, which included discussions in relation to temporary road management and maintenance. Between June and December 2022, four review missions were fielded and, additionally, targeted discussions were held during country portfolio review missions in September 2022 and April 2023 to ensure continuous attention to all implementation issues, including those raised by the Complainant and the Individual.

29. Through a review mission in January 2022, it was agreed between ADB and MRTD that a precautionary safeguards approach would be taken and that additional resettlement due diligence would be conducted to ascertain compliance with ADB's involuntary resettlement safeguards for the Project. The involuntary resettlement due diligence was carried out by MRTD in February and March 2022 and it was reconfirmed that the Project did not result in any involuntary resettlement impacts; therefore, the Project continued to maintain the resettlement framework, and no resettlement plans have been required to date. The resettlement due diligence report was disclosed on the ADB Project website on 31 March 2022.

30. During a special review mission in June 2022, the mission team noted that dust was being emitted in some stretches of temporary road in sections CWI-2 and CWI-4. As a corrective action, the EA increased dust suppression mitigation measures by increasing the frequency of water suppression activities along the temporary road. A second special review mission was conducted in August 2022, which continued in September 2022, wherein the mission noted that the Individual had filed a complaint through the GRM under the Project (see para. 44 which discusses this complaint and efforts to address it). Subsequently, another safeguards review mission was fielded in October 2022 to review Project impacts and update Project due diligence. The mission made recommendations for enhanced dust control measures and further improvement of the GRM. A mid-term review mission in November - December 2022 followed up on the EA's actions

\(^5\) CWI-2 and 1-4 packages were terminated in 2020 due to poor performance, and were re-awarded in September 2021.

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in response to recommendations made by ADB in such safeguard review missions, and the mission confirmed that, in addition to project affected people being able to make complaints through the local government authorities and social outreach officers of the PIU, project affected people could also have direct access to the contractor responsible for the ongoing construction works in order to file complaints under the GRM, such that the Project could more swiftly detect complaints and concerns of affected people.

31. Monitoring reports are submitted by the PIU to ADB annually and disclosed on the ADB website as Environmental Monitoring Reports ("EMR"). EMR reports have been disclosed by ADB between 2019-2022 in accordance with requirements set out in the SPS, EMP and Project Administration Manual ("PAM"). Additionally, in response to complaints received, ADB requested the EA to increase the frequency of EMR reporting to bi-annually from 2022.

32. Continued consultation and information disclosure was conducted by the traffic police between 10-26 April 2019 as evidenced by photos and explanations submitted to ADB by MRTD (Attachment 5). In addition, the Minister of MRTD issued a resolution, dated 13 June 2019, informing of the road closure commencing 17 June 2019 and the requirement to utilize the temporary road (Attachment 6). The partial closure of the UBD Road was also publicized through several news outlets prior to commencement of works (Attachment 7).

33. According to the monitoring report in 2022 for implementation of the Social Development and Gender Action Plan, regular information dissemination for local communities was conducted by the Construction Supervision Consultant. From June 2022, on-site consultations were enhanced by engaging four additional social outreach officers hired by the EA.

34. Air Quality and Dust Management. Fugitive dust is commonly generated from construction activities and needs to be adequately managed throughout the project lifecycle. In accordance with the SPS, appropriate air quality baseline data was collected for the IEE. As no existing air quality data was available for the corridor, an air quality field survey team was engaged to measure baseline air quality at 10 key sites along the corridor. This information is included in the IEE.

35. The EMP, included within the IEE document, sets out generic dust suppression measures to maintain airborne fugitive dust levels to national standards. During IEE preparation it was acknowledged that national standards were considered equivalent to World Health Organization (WHO) interim Air Quality Target. The mitigation measures set out in the EMP were included in contractors' construction environmental management plan when bids were submitted.

36. The EMP requires air quality measurements to be recorded monthly during construction and that mitigation measures are applied to reduce dust. During construction, and in accordance with requirements set out in the EMP, air quality samples were collected by a company certified by the Mongolian government. Using independently certified laboratories, air quality results from the Project alignment were analyzed, and the results presented in EMRs. The analysis of air sampling for total suspended particulate identified the following exceedance. In 2020, across a total of 26 samples, five air quality samples were recorded as in exceedance of national thresholds. In 2021, across a total of 38 air quality samples, three were recorded in exceedance of national thresholds. In 2022, out of a total of 34 air quality samples, two exceeded national standards during the construction period.

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37. Mitigation measures set out in the EMP to maintain fugitive dust within national limits along the temporary road included: enforcing speed limits; applying water suppression techniques; the application of tarpaulins to cover truck haulage loads; and dust management controls during loading and unloading of haulage. To prevent dust from becoming airborne, the temporary roads were regularly sprayed with water, the frequency of which was adapted to respond to climatic and road conditions. Dust suppression was supervised by the Construction Supervision Consultant. Details of the frequency of water suppression techniques are recorded in the disclosed EMRs. EMRs for 2022 (January-June and July-December 2022) state that: ‘As mitigation measures, the contractor at CW1-2 deploys a total of 4 water spray trucks for watering along the temporary roads to reduce dust. The temporary road is maintained on a daily basis, with one engineer in charge of temporary road, four water trucks, one excavator, and truck loaders and motor graders as needed to reduce the dust and maintain temporarily road condition’. To respond to variable climatic and dust conditions, the frequency of dust suppression was at times increased to 16 times a day, again showing adaptive management strategies were applied.

38. In order to further mitigate dust emissions along the temporary road, MRTD proposed to allocate $1.6 million of loan proceeds to apply a layer of gravel along the temporary roads being maintained by contractors, which was agreed to by ADB. A total of 207 km of temporary road was designed and constructed for uninterrupted traffic flow during construction works along the UBD Road. Use of this temporary road was required during the construction season from April to October each year throughout Project implementation, until sections of the rehabilitated UBD Road became operational progressively during 2020-2022. Temporary road design took place in May 2019, and construction of the temporary road occurred between 24 May 2019 and 10 July 2019.

39. Road Quality and Traffic Management. Construction Supervision Consultants were deployed to supervise the contractors to maintain road quality during construction in accordance with the PAM. Activities to maintain adequate road quality whilst upgrade works were ongoing on predetermined stretches, which included: filling potholes, grading roads, monitoring road conditions and applying adaptive management to maintain acceptable temporary road quality (no national standard exists).

40. To manage traffic safety risks along temporary roads for each civil works package, contractors prepared traffic safety management plans ("TMS") for each construction season that were approved by the traffic police. On the temporary diversion roads, speed limits of between 20 and 50 km/hour were imposed; traffic safety and warning signs were posted; speed bumps were installed; emergency response and rescue teams were established to respond to incidents; and regular checks were conducted by local traffic police.

41. All road incidents, even on temporary roads, are documented and reported to the traffic police. According to a letter of the Traffic Police Service under the National Police Agency dated 22 April 2022, between 2019 and April 2022 on the UBD Road, none of the accidents were attributed to the road condition.

42. In accordance with best practice, with respect to the civil works packages, active in different construction schedules, traffic management actions were enforced to ensure uninterrupted traffic. In 2019, approximately 853 road signs and 21 speed breakers were positioned by the contractor along the temporary road. In 2020, three contractors placed 452 road signs and 17 speed bump at the identified area. In 2021, a total of 477 road signs and 56 speed
In 2016, estimated travel time on the UBD Road was 3.1 hours based on baseline data provided in the DMF. As per the travel time data provided by the Construction Supervision Consultant for the Project, travel time in 2019 prior to commencement of Project construction had increased to 4.0 hours in summer and 4.7 hours in winter, as the UBD Road's condition had further deteriorated since 2016. Following the commencement of improvement works under the Project and the traffic management actions described above, in the winter of 2019 travel time had increased to 4.3 hours in summer and reduced to 4.6 hours. When the first layer of asphalt concrete pavement progressively completed during October 2020–October 2022, the travel time was gradually reduced to 3.8 hours in the Summer of 2022 and 3.3 hours in the Winter of 2022. The travel time in summer of 2023 (in the month of May) has been further reduced to 2.7 hours (Attachment 8).

### 44. Establishment and operation of a grievance redress mechanism (“GRM”).

In accordance with ADB's policies and procedures, the 2018 IEE required establishment of a GRM. Accordingly, the GRM was functional at the Project site from July 2019 and accepted and resolved 21 grievances, as confirmed by each EMR from 2019 to 2020. No grievances were recorded in 2021 by the GRM. As part of ADB's ongoing consultation efforts and in light of changing local government staff, the GRM was further explained and confirmed with local stakeholders on site during the ADB field mission in February 2022. In 2022, the GRM was upgraded to include four local Social Outreach Officers to proactively consult community members to identify and resolve grievances. Through the Social Outreach Officer of Bomuur soum, the individual formally lodged a complaint to the GRM on 9 July 2022. This complaint related to (i) access to her farm; (ii) dust impacts on farm productivity; (iii) compensation; and (iv) broken vehicle windows. As earthworks blocking access to the individual's farm were associated with the contractor under the EBRD Project, MRTD instructed the contractor to open the access and the access issue was resolved in November 2022. The other unresolved issues raised by the individual are being addressed by MRTD. The individual has been actively engaging with the GRM since raising her complaint. The Complainant has not lodged a formal complaint with the GRM.

### IV. Relation of the Complaint to Actions that are the Responsibility of Other Parties

Paragraph 140 of the AMP provides that “[i]nterests reviews cover only ADB-financed projects”. Paragraph 147 of the AMP furthermore provides that “[t]he CRP must be satisfied that there is evidence of the coexistence of (i) direct and material harm caused by the ADB-assisted project; (ii) noncompliance by ADB with its operational policies and procedures, and (iii) the noncompliance as a cause for such harm”. Paragraph 148 of the AMP provides that complaints “relating to actions that are the responsibility of other parties...” will be excluded from compliance review.

### 46. The assertion in the Complaint that “the road to our resort is destroyed” is general in nature and does not identify which road, or part thereof, is being referred to, including whether this aspect of the Complaint is directed towards the ADB Project or EBRD Project. However, taking aside the fact that a temporary road was constructed along the UBD Road, without a significant detrimental impact on traffic movement (para. 43), the access road to the Complainant’s resort and its intersection with the UBD Road (and the temporary road running alongside it) is in the road section

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7 Travel time data is provided by the supervision experience of Construction Supervision Consultant staff travelling on project road for day-to-day supervision activities.

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covered by CWI-2 and the widening works at this location are under the scope of the EBRD Project. The EBRD Project commenced works on this section on 25 March 2021, six months before the ADB Project commenced rehabilitation works on the same section in the existing ROW. Operation and maintenance of the intersection where the road from the Complainant’s resort joins the UBD Road (as well as the temporary road in the area of the intersection) is under the scope of the contractor under the EBRD Project. With respect to the UBD Road more generally, the contractor under the ADB Project has responsibility for operation and maintenance of the temporary road from the zero point of the CWI-2 section to the 22.75 km mark, whereas the contractor under the EBRD Project has responsibility for operation and maintenance of the temporary road from that 22.75 km mark to the end point of CWI-2 (45.5 km) which includes the immediate area of the access road to the Complainant’s resort.

47. As noted in Section I, a complaint was submitted to EBRD’s IPAM on the same day as the Complaint submitted to ADB, with generally identical content. As noted in the paragraph above, given the generality of the Complaint, it is not possible to identify the specific issue raised with respect to the UBD Road. However, to the extent the harm alleged by the Complaint is not caused by external factors (see Section V), the Complaint is, on balance, not related to the ADB Project for the reasons that (i) the rehabilitation works under the ADB Project involved relatively limited disruption to the UBD Road, rather than closing an entire section at a time; and (ii) the contractor for the more extensive works under the EBRD Project was, among other things, responsible for the road widening works at the intersection with the access road to the Complainant’s resort as well as the operation and maintenance of the 22.5 km mark to the end of CWI-2 (45.5 km) of temporary road in the area of the intersection.

48. The specific issues and alleged harm experienced by the Individual are not described in the Complaint, as noted in Section I. However, without prejudice to the provision of the AMP that compliance review “will focus on the specific complaint” (para. 185 of the AMP and para. 9 above), in relation to the various issues raised by the Individual through the GRM which related, among other things, to the connectivity of her farm (see paras. 8 and 44) situated at 73.37 km from the zero point of the project road in Ulaanbaatar, the relevant intersection of one of the farm’s access roads falls in the second half of the CWI-2 road section where the temporary road is maintained by the contractor under the EBRD Project.

49. Notwithstanding the fact that the Complaint relates to the temporary road whose operation and maintenance is not within the scope of the ADB Project, ADB made significant efforts to address impacts on sections of the temporary road under the EBRD Project’s responsibility. With respect to the Individual, ADB requested the EA/PIU to register her complaint through ADB’s GRM (as EBRD did not have a functional GRM at that time) and to help resolve the complaint with the relevant contractor under the EBRD Project. This led to the earth being removed by the contractor under the EBRD Project and the other problems of the Individual are being addressed by MRTD (para. 44). In addition, ADB continued efforts to engage with EBRD on these access issues, as well as other issues raised by the Complainant and the Individual, in meetings in November and December 2022, such that any similar issues would be shared between EBRD and ADB, coordinated and resolved. ADB also supervised the establishment of TMPs, coordinated on the implementation of fugitive dust management and maintenance of temporary roads and continued consultation and public outreach, which in each case took into account the EBRD Project.
V. Absence of Evidence of Direct and Material Harm due to ADB’s Noncompliance with its Policies and Procedures

50. To be deemed eligible for CRP review, "(i) there must be evidence of noncompliance by ADB with its operational policies and procedures; (ii) there is evidence that the noncompliance has caused, or is likely to cause, direct and material harm to project-affected people; and (iii) the noncompliance is serious enough to warrant a compliance review" (para. 179). In this case, and as described in Section III, ADB complied with its operational policies and procedures in the processing and implementation of the Project. Notwithstanding this point, the Complaint’s allegations of harm are not due to ADB’s noncompliance with its policies and procedures, but rather may be attributed to factors external to the Project.

51. Through the construction and use of temporary roads under the Project, traffic has never been blocked along the UBD Road since the commencement of construction in 2019 to date. As described in Section III, this is owing to mitigation measures including the provision of the temporary roads to detour around the works. While the Complaint asserts that "...the temporary road was impassable, dusty, limited visible and dangerous to travel", in accordance with the EMP, ADB has ensured that MRTD took necessary actions to control dust and maintain the condition on the temporary road to divert traffic from the UBD Road (paras. 37-40). Closure of the permanent road under the ADB Project was also limited, through the rehabilitation of the road in discrete sections of approximately 5km or less in each contract at a given time. Through these measures, travel time between Ulaanbaatar and Darkhan has also not been substantially increased by the improvement works (para. 43).

52. Moreover, the Complaint’s allegation that the improvement works under the Project caused the resort to experience loss of income is contradicted by the business records submitted with the Complaint. Namely, while works under the Project initiated in June 2019, the tax-related documents provided in the Complaint show that the resort’s income did not decrease in 2019 compared to 2018, but in fact marginally increased. Per records submitted with the Complaint, significant business income losses occurred in 2020 and 2021, coinciding with international border closures and domestic mobility restrictions in response to the COVID-19 pandemic. Namely, as a result of the COVID-19 pandemic, international border closures and domestic mobility restrictions were imposed in Mongolia. Mongolia closed its international borders between January 2020 and February 2022, and the government imposed strict internal mobility restriction between February 2020 and July 2021. A 2022 study covering 188 tourism companies showed that tourist camps and resorts reported revenue declines of 84% in 2020 and 2021 compared to pre-COVID-19 years. However, with the exception of the lockdown periods during the COVID-19 pandemic, traffic along the existing UBD Road was never closed completely, as a result of the temporary road.

53. Eligibility for CRP review requires satisfaction that a causal link exists between ADB’s noncompliance and direct and material harm to project-affected people (para. 147 of the AMP). The alleged material harm in this case is loss of income. On the cause of this material harm, the Complaint’s allegations disregard the impact of the COVID-19 pandemic in 2020 and 2021, which severely affected the tourism sector in Mongolia and globally due to domestic and international restrictions. Also, as noted above, for the 2019 tourism season prior to the COVID-19 pandemic, the allegations regarding loss of income are not supported by the increased revenues in 2019.

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8 https://tourism.ub.gov.mn/?p=10832

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compared with 2018. As also noted above, traffic along the UBD Road route was never closed for the reason that while sections were being rehabilitated, temporary roads were available. ADB complied with its operational policies and procedures in the processing and implementation of the Project and there is no evidence that noncompliance by ADB with its policies and procedures caused the alleged harm.

VI. Continuing Good Faith Efforts to Resolve Issues

54. The AMP states that "as part of the eligibility determination, the CRP will review and determine whether the complainants made prior good faith efforts to resolve issues with the operations department concerned. The CRP will forward the complaint to the operations department concerned if the complainants did not make such efforts" (para. 180). Pursuant to paragraphs 148, 142 (ii) and 179 of the AMP, complaints are excluded from compliance review if they concern matters that complainants have not made good faith efforts to address concerns with the relevant ADB operations department.

55. OSPF considered the relevant allegations (SPF-2022-06-01-0126), and on 23 June 2022, the SPF deemed the complaint ineligible for the problem-solving function, considering that there were ongoing efforts to resolve the various issues raised in the complaint at the EARD/MNRM level. The Complainant and the Individual were advised that, should they wish to bring their complaints back to the Accountability Mechanism, they should amongst other things provide information on their further efforts and those made by EARD/MNRM and the project authorities to resolve the issues.

56. In this case, on receiving the Complaint, the CRO requested further information and specific details on efforts the Complainant and the Individual have made to solve the problem with EARD/MNRM, considering the complaint was deemed ineligible by the OSPF in June 2022. On 28 April 2022, the Complainant responded noting that the Complainant and the Individual had participated in meetings with MRTD (which occurred on 26 May 2022), and a teleconference meeting with EARD (which occurred 5 July 2022), the Complainant stated in that response that "...no one is helping to identify and address adverse impacts we are facing through these years".

57. In fact, since the OSPF's determination regarding ineligibility for the problem-solving function, ADB has undertaken significant efforts in addressing the Complainant and the Individual's concerns. ADB requested the PIU to share all Project-related documents with the Complainant and the Individual, which was done on 30 June 2022. ADB made requests for a follow-up meeting with the Complainant and the Individual from 23 June 2022. The Complainant and the Individual initially refused to meet ADB, finally agreeing to meet ADB on 5 July 2022, during which the ADB team updated the Complainant and the Individual on project implementation and explained the GRM process. The Complainant has not yet submitted a formal complaint through the GRM (para. 44).

58. EARD has engaged repeatedly with MRTD to address the Complainant and the Individual's issues, and following MRTD's engagement to that effect, MRTD has decided to construct an 8.5 km paved access road with pipes, culverts, and road markings from the UBD Road in the direction of the Complainant's resort. The funding for these works has been allocated in the 2023 state budget, and MRTD has already awarded a contract for construction of this paved access road. Construction for these works is scheduled for completion by the end of 2023.
59. With respect to the Individual, and without prejudice to the AMP’s provision that the compliance review “will focus on the specific complaint” (para. 186 of the AMP; see also para. 9 above), ADB has undertaken actions to help resolve the individual’s issues. Notwithstanding the fact that the individual’s issues related to the temporary road under the EBRD Project’s responsibility, ADB facilitated resolution of the complaint relating to the blockage on one of the farm’s access roads through the ADB Project’s GRM, which led to removal of the earth blocking the relevant access to the individual’s farm. The other issues raised by the individual are being addressed through the GRM (see para. 44).

60. Complaint seeks Remedies outside the Scope of Compliance Review Function. The AMP provides that “compliance review will not provide judicial-type remedies, such as injunctions or monetary damages” (para. 130 of the AMP). However, the Complaint focuses on loss of revenues at the Complainant’s resort and seeks relief by way of compensation. Pursuant to the provisions of the AMP, the Complaint’s request for monetary damages is not provided through the compliance review function. Notwithstanding this point, significant efforts have been undertaken to address the Complainant’s concerns, including (as noted in para. 58) MRTD’s decision to construct the paved access road from the UBD Road to the resort.

61. In view of the above, the Complainant and the Individual’s concerns have either been addressed, or are in the process of being addressed, notwithstanding the fact that the Complainant has not submitted a formal complaint through the GRM (para. 44). Given the good faith efforts underway on the part of ADB and MRTD to meaningfully engage on and resolve the Complainant and the Individual’s specific issues at the Project-level, as well as the lack of availability of the remedy sought under the Complaint, the Complaint could more appropriately be addressed through the Project-level GRM.

VII. Satisfaction of Procedural Requirements for Complaint Submission

62. The AMP sets out procedural requirements for the submission of complaints. Paragraph 138 of the AMP requires complaints to be made by “any group of two or more people who are directly, materially and adversely affected” by the Project. If a complaint is made through a representative, the complaint “must clearly identify the project-affected people on whose behalf the complaint is made and provide evidence of the authority to represent such people” (para. 138 of the AMP). In addition, complaints must be in writing and may be submitted by mail, fax, e-mail, or hand delivery (para. 150 of the AMP). Complaints submitted to the CRO “must specify ... (vi) a description of the direct and material harm that has been, or is likely to be, caused to the complainants by the ADB-assisted project; (vii) a description of the complainants’ good faith efforts to address the problems first with the operations department concerned, and the results of those efforts;” (para. 151 of the AMP).

63. In relation to the above AMP requirements, it is noted that (i) all correspondence comprised within the Complaint appears to have been provided solely by the Complainant, (ii) the Complaint relates to the resort of the Complainant, and (iii) the Complaint is not accompanied by concurrence or other written communication directly from the Individual. Furthermore, the Complainant does not purport to be the representative of the Individual, nor is there any evidence of authority with respect to the Complainant being a representative of the Individual. The nature and specifics of the Individual’s complaints are not provided in the Complaint and, as such, there is no description of direct material harm suffered by the Individual or good faith efforts to resolve the problems with EARD or MNRM in the Complaint. Management therefore respectfully requests the CRP to consider whether the Complaint, as filed with the CRO, has been properly filed by a group of two or more people in accordance with the requirements of the AMP.
VIII. Eligibility of the Complaint

64. Management, having carefully considered the matters raised in the Complaint, is of the view that the Project has been prepared, and is being implemented, in compliance with ADB’s policies and procedures. Arrangements are in place and will be carefully undertaken to ensure that the Project remains in compliance throughout its implementation.

65. Management respectfully contends that the Complaint is ineligible for CRP review given (i) the absence of evidence of noncompliance with ADB’s policies and procedures (Section III above), and (ii) consequently, there being an absence of evidence of any noncompliance causing, or being likely to cause, the alleged harm under the Complaint (Section V above). Moreover, Management contends that the harm alleged under the Complaint relates to actions that are external to the ADB Project, i.e., the COVID-19 pandemic or actions that are the responsibility of other parties (Section IV above). Finally, it is premature at this stage to conclude that good faith efforts have been exhausted to resolve issues with EARD and MNRM (Section VI above).

66. Management also respectfully contends that the Complaint is ineligible for CRP review as it has not satisfied the procedural requirements for complaint submission as it does not appear the Complaint was made by two or more people that are directly, materially and adversely affected by the Project (see Section VII). Furthermore, the request in the Complaint for monetary damages is not provided through the compliance review function (para. 60).

67. However, notwithstanding Management’s view that the Complaint is ineligible for compliance review, ADB has been in regular contact with the EA, the Complainant and the Individual and intends to continue to support open dialogue and to facilitate resolution. The resultant ongoing efforts by MRTD to provide in kind compensation demonstrates that good faith efforts have not been exhausted. The Complaint could therefore be more appropriately addressed through the Project-level GRM. Management stands ready to provide further clarification to the CRP upon request.

Attachments:

1. CRP Memo requesting Management’s Response with attachments thereto
2. Allegations in the Complaint and Management’s Response
3. Compliance with ADB’s SPS and its Operational Manual Section F1
4. Maps of each UBD Road section and its corresponding lot
5. Evidence photos of when MRTD conducted consultation meeting with local communities along the subject road
6. MRTD Ministerial Resolution 192 dated 13 June 2019 informing that the road would be closed starting 17 June 2019 and shifted to a diversion road
7. News outlets prior to commencement of work (website links where information was disseminated)
8. Average travelling time before and during the implementation of UBD Road construction

cc: Noor Ahmed, Executive Director Representing Mongolia
Philip Rose, Chair, Board Compliance Review Committee (BCRC)
Alberto Cardon, Vice Chair, BCRC
San Thida, Member, BCRC
Damien Horiambe, Member, BCRC

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Moushumi Khan, Member, BCRC
Nim Dorji, Member, BCRC
Halina Ward, Member, Compliance Review Panel (CRP)
Vaideeswaran Sankaran, Member, CRP
Kostradia Muklisa Emzita, Assistant General Counsel, OGC
Bruce Dunn, Director, SDSS
Nianshan Zhang, Head-Designate, Office of Safeguards
Balabhaskara Reddy Bathula, Regional Head, Operations Coordination, EARD
Shannon C. Cowlin, Officer-in-Charge, MNRM
Chandra Arora, Portfolio Management Specialist, MNRM
Enkh-Ulzii Bayarsaikhan, Project Officer, MNRM
Irnum Ahsan, Advisor, Office of the Compliance Review Panel
Memorandum

CRP2023BGG
15 May 2023

To: Ahmed M. Saeed
   Vice-President (Operations 2)

From: Elisea G. Gozun
   Chair, Compliance Review Panel and concurrently Head, Office of the Compliance Review Panel

Subject: Request for Management's Response under the Complaint on Mongolia: Regional Road Development and Maintenance Project (Project No. 48186-006)

1. We attach to this memo a complaint requesting compliance review in respect of the above-captioned project, which was received by the Compliance Review Panel (CRP) on 8 May 2023.

2. In accordance with para. 178 of the Accountability Mechanism Policy 2012 (AMP) read with para. 71 of the Operations Manual Section L1/OP, the CRP has carried out its initial assessment and confirmed that the complaint falls within the mandate of the compliance review function.

3. Through this memo, in accordance with para. 178 of the AMP, the Management is requested to submit its response to the attached complaint to the CRP by 14 June 2023. The Management response must include evidence that (i) ADB has complied with the relevant ADB policies and procedures; or (ii) there are serious failures attributable exclusively to ADB's actions or omissions in complying with its policies and procedures, but Management intends to take actions to ensure compliance, as appropriate.

4. It would also be useful for the Management response to include a description of prior and/or as relevant ongoing efforts made by ADB Management and the Borrower to address the complainants' concerns. The CRP has separately informed the Executive Director of ADB representing Mongolia about this complaint.

5. Please note, the complainants did not request to keep their identities confidential in their complaint, as submitted to the Complaint Receiving Officer. However, we request the Management to handle the complainants' concerns and all relevant actions relating thereto with care to avoid any unfortunate instances of reprisal against the complainants.

Attachment: Complaint

cc: Noor Ahmed, Executive Director Representing Mongolia
    Philip Rose, Chair, Board Compliance Review Committee (BCRC)
    Alberto Cerdan, Vice Chair, BCRC
San Thida, Member, BCRC
Damien Horiambe, Member, BCRC
Moushumi Khan, Member, BCRC
Nim Dorji, Member, BCRC
Halina Ward, Member, Compliance Review Panel (CRP)
Valdeeswaran Sankaran, Member, CRP
M. Theresa Kho, Director General, East Asia Department (EARD)
Enkh-Ulzii Bayarsaikhan, Project Officer, EARD
Irump Ahsan, Advisor, Office of the Compliance Review Panel
### Attachment 2: Allegations in the Complaint and Management’s Response

<table>
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<tr>
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<tr>
<td>Complaint email submitted to GRO on 19 April 2023</td>
<td>With respect to the allegation of ADB’s lack of accountability and its management failure, ADB has complied with the key elements of its policies and procedures, as described below.</td>
</tr>
<tr>
<td>1. ADB’s lack of accountability and management failure on Ulaanbaatar Darkhan road project.</td>
<td>Meaningful consultation. As a requirement of the preparation of the IEE, face-to-face interviews were conducted with a total of 120 herdsmen residing along the UBD Road corridor in March 2019. The IEE was disclosed on the ADB website before Board approval, during which people also had the opportunity to review and comment on the project. A Mongolian version of the environmental assessment was disclosed in January 2019. MRTD has informed ADB, the Complainant (Ms. Munkhrikhishig Albangerel on behalf of Dugan Road Travel LLC) and the individual (being the individual described by the Complainant as “choosing compliance review option for her complaint also” in an email dated 28 April 2020), that in cooperation with the Traffic Police Department, MRTD conducted outreach meetings with local citizens and authorities along the route in March-April 2019. Though no written reports or summaries are available in the notes, MRTD has provided some photos of the consultations. Pursuant to MRTD’s Ministerial order 192 dated 13 June 2019, MRTD organized a media conference at the Road Transport National Center on 15 June 2019 and disseminated the decision on the project commencement and transitioning traffic to the temporary road through various media channel for wider publicity in general public. The partial closure of the UBD Road was also publicized through several news outlets prior to commencement of works. In addition to the MRTD website and newspaper notification of the 2019 work commencement, a local official also confirmed to ADB that MRTD organized series of consultations and information sharing at the local gym, school, theatres and presented on the</td>
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<td>construction plan and work commencement. A local official also confirmed that a simple brochure was prepared and shared with local communities. Environment Safeguard and Monitoring. Responsibility for implementation of the IEE remains with the Executing Agency, based on the covenants of the Loan Agreement for the project. The IEE was disclosed in Mongolian language in January 2019. To implement IEE requirements and following standard practice, EMP is incorporated into works contracts. The IEE requires that contractors prepare a construction environmental management plan (CEMP). This procedure also requires the PIU approves the CEMP before it is adopted. Importantly, it is recognized that management plans of this nature are ‘living’ documents, that require continual review and updating in line with any additional losses or impacts identified by the construction supervision consultant and PIU during the construction phase. Baseline conditions along the project road were recorded for noise, air quality and water prior to works commencement. The results of this baseline are disclosed in the project IEE. During project implementation, monitoring was undertaken for noise, air, soil and water. Monitoring of ambient conditions acts to provide evidence that construction activities do not exceed relevant standards. If exceedance is recorded, additional mitigation measures should be considered to bring concentrations to within the limits of applicable standards. Mitigation measures, to maintain ambient conditions within standards thresholds were implemented by contractors as per CEMPs. Ambient conditions were periodically recorded by qualified, independent specialists and results were analyzed at a laboratory certified by the Mongolian government. Such assessment, management and monitoring can be considered proportionate to the potential risk and impacts of the project.</td>
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<td>EMRs (2019-2020, 2021, semi-annual 2022, 2022 annual) are submitted and disclosed on the project website. Safeguard DDR was conducted in February/March 2022 and disclosed.</td>
<td>Anecdotal evidence from ADB staff confirmed that at the time of project processing, there was no clear indication that EBRD would invest in the additional road widening project. As such, cumulative or induced impacts were not required to be assessed in the IEE. The development of the IEE is therefore considered commensurate with the potential risks and impacts of a road rehabilitation project.</td>
</tr>
<tr>
<td>The Environmental and Social Impact Assessment (ESIA) for the EBRD-funded project considers the ADB road rehabilitation project as an ‘associated facility’. To manage impacts, the EMP (included within the ESIA) details the need to “Clearly identify team structures, organisations roles and responsibilities (MRTD/PIU/EBRD), including interface with the Phase I project (ADB/PIU). Appoint and maintain person(s) to be responsible for ESIS within the PIU. Assess the capacity of PIU staff, contractors and other key appointments”. A PIU was engaged by the EBRD-funded project in April 2023. EBRD-funded project commenced construction in March 2021.</td>
<td>ADB regularly monitors project implementation, including social and environmental impacts, through the submission of monitoring reports from the PIU and through conducting regular project review missions. ADB safeguards assessments and monitoring reports are available on the project website. All project reports, monitoring reports and environmental management plans were shared with the Complainant in June 2022.</td>
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**Grievance Redress Mechanism (GRM).** In accordance with ADB’s policies and procedures, the 2018 IEE requires establishment of a GRM. A GRM was functional at the project site from July 2019 and...
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- Accepting and resolving grievances, as confirmed by each EMR from 2019 to 2020. No grievances were recorded in 2021 by the GRM. Because of frequent change in local government staffs, ADB explained and confirmed with local stakeholders on site during field mission in February 2022. In 2022, the GRM was enhanced to include four local social outreach officers ("SOOs") to proactively consult community members and to identify and resolve grievances. In addition, in December 2022, project affected people could also have direct access to the contractor responsible for the ongoing construction works in order to file complaints under the GRM, such that the Project could more swiftly detect complaints and concerns of affected people.

- Through the SOO of Bommar Soam, the individual formally lodged a complaint to the GRM on 8 July 2022. This complaint related to (i) access to her farm, (ii) dust on her farm production, (iii) compensation, and (iv) vehicle window glasses broken twice. As the road blocking access to the individual’s farm was due to the EBRD-financed works, the ADB PIU contacted the contractor for EBRD in August and September 2022 and the access issue was resolved in November 2022. The other complaints are being addressed by MRTD. The individual has been actively engaging with the GRM since raising her complaint. The Complainant did not lodge a formal complaint with the GRM.

- During the period February 2020–July 2021, despite domestic mobility restrictions relating to coronavirus disease (COVID-19), ADB was able to conduct a mission in September 2020, including discussions of the management of temporary road maintenance for road sections where contracts had been terminated (CW1-2 and CW1-4).

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<td>were assessed during project preparation. Due diligence at the project processing stage confirmed that the project would not involve involuntary resettlement impacts since improvement of the existing 2-lane road would be within the existing road right-of-way. It was expected that the road safety features would not involve involuntary resettlement impacts either, given that safety improvements would be in the form of road markings, barriers, and guide posts. However, the project took a precautionary approach and categorized IR safeguard as category B and developed a Resettlement Framework (RF) in accordance with the SPS. The RF identified defined procedures for conducting due diligence and preparation of resettlement plans, as necessary. It also stated that the design and implementation would make every effort to avoid and minimize land acquisition and resettlement impacts, including temporary impacts during construction. The RF was disclosed on the ADB website on 9 June 2017. In a loan review mission in January–February 2022, it was agreed that a precautionary approach would be taken in accordance with SPS and that additional resettlement due diligence would be conducted to ascertain compliance with ADB’s involuntary resettlement safeguards for the project. The resettlement due diligence was carried out by MRTD in February and March 2022 and it was reconfirmed that the project did not result in any involuntary resettlement impacts, therefore, the project continued to maintain the resettlement framework, and no resettlement plans have been required to date. The resettlement due diligence report was disclosed on the ADB project website in March 2022.</td>
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<td>2. about 40 people died</td>
<td>According to an official Traffic Police Letter dated 22 April 2022, “a total of 405 traffic accidents were registered on the Ulaanbaatar-Darkhan road in 2019-2021. The official letter stated a number of deaths was attributed to poor vehicle maintenance and driving in violation of traffic regulations. The letter further stated that there were no petitions and/or complaints submitted to the Transport...</td>
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| Police Department or local police units regarding road condition by provincial or local residents.  
The letter also mentioned that the Traffic Police stationed police posts at traffic accident prone areas and patrolled to ensure traffic safety on the temporary roads in relation to the commencement of construction works on the Ulaanbaatar-Darkhan Road (UBD Road).  
Traffic management and road safety are of paramount importance for road projects. For the Project, comprehensive traffic management plans (TMP) must be prepared by each contractor, and have been implemented by each contractor. The TMP is then endorsed and routinely enforced by the Traffic Police Department. Requirements set out in each TMP, agreed jointly by ADB and MRTD, were designed to regulate, control and manage traffic along the road. The TMP is designed to achieve the following: i) coordinate the movement of vehicles, pedestrians and livestock through road construction sites, access roads, borrow areas and industrial zones; ii) minimize traffic congestion, obstacles, and accidents that may affect road construction performance; and iii) minimize the impact on road resources, adjacent settlements, herders, people with livestock, and property owners, in the vicinity of the construction site.  
The overarching goals of the TMP were achieved through the application of the following strategies: i) providing roads, lanes, and areas sufficient for traffic safety on road construction sites, access roads, factories and borrow areas; ii) managing the traffic of road users, drivers, pedestrians, and cyclists; iii) sequencing construction activities to minimize adverse effects; iv) ensuring employees have safe access to the workplace in accordance with safety regulations; and v) controlling all inbound and outbound traffic in accordance with national safety requirements. |

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<td>TMPs required contractors to install traffic management signs and speed</td>
<td>TMPs required contractors to install traffic management signs and speed breakers. In 2019, a total of 653 road signs and 21 speed breakers were installed along temporary roads to regulate traffic speeds and enhance traffic safety provisions. During the first year of construction, monitoring reports identified that signage was being removed from the roads. As such, during succeeding years of construction, contractors installed replacement signage commensurate to the alignment and conditions of the temporary roads. To further enhance traffic safety provisions along the temporary roads, dedicated engineering teams were deployed by each contractor to ensure road conditions were maintained. Each engineering team was responsible for routine repair of potholes and other road deficiencies.</td>
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<td>Hundreds of families and businesses go bankrupt</td>
<td>The project implemented meaningful consultation during preparation and enhanced GRM to address concerns and voiced of project affected people (see response to allegation #1). In addition, (i) the project is not deemed a cause of direct and material harm on local business as detailed below; (ii) ADB has complied with its operational policies and procedures (see response to allegation #1), and (iii) this allegation on negative impacts of the project on local business was not caused by the project and ADB’s non-compliance with its operational policies and procedures. The available national and provincial statistics indicate significant impacts of COVID-19 on local businesses for the period between 2020-2021. According to the National Statistical Office, the total number of small, medium businesses and services increased by 15 in 2019 and by 15 in 2020, and decreased by 27 in 2021 in Darikhan.</td>
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<td>In Tuv province, where the complaint is located, the total number of</td>
<td>In 2022, a government study covering 165 tourist resorts and tourist camps showed that these reported an 84% revenue decline in the combined period of 2020 and 2021 compared to pre-COVID period (2019).</td>
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<td>small, medium businesses increased by 16 from 1 January to 31 December 2019 and by 4 in 2020, and decreased by 74 in 2021.</td>
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<td>COVID-19 restrictions were first introduced in a large scale in Mongolia in February 2020, which significantly escalated over the course of the following few months as the pandemic spread. Before declaring Ulaanbaatar and all provincial cities as quarantine areas on 10 March 2020, the national government had already closed its border in January 2020, declared an entry ban from overseas, and closed public schools.</td>
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<td>Within the first month of declaring the pandemic in the country in March 2020, the government ceased all international traffic, introduced a ban on entry of all foreign travelers, enforced full border closures, and declared a ban on assembly within the country. Between February 2020 and February 2022, the country was under the so-called “high-level readiness” which precluded in full or in part the activities of trade, production, public entertainment and service provider organizations and educational institutions other than telecommunication, energy, food supply, gas stations and strategic purposes. Mongolia transferred to the strict lockdown seven times in between high-level readiness regime in 2020-2022, including full restrictions on population movements and assembly. Mongolia ceased the high-level readiness regime and reopened its international borders in mid-February 2022.</td>
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4. The project was first signed on 16 June 2019 and planned to finish the same year. The Project was approved by the ADB Board of Directors on 29 June 2018 and 20 May 2019 (additional financing), the Loan and Grant Agreements were signed on 23 July in 2018, and 2 October.
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<td>2018 (additional financing), and declared effective on 1 August 2018 and 5 November 2019 (additional financing). The project implementation period is for six years, with completion date envisaged to be on 31 December 2025, and 31 March 2026 (additional financing), and closing date to be on 30 June 2026, as set out in the Loan Agreement and all project documents, all of which are disclosed to the public. Road construction works in all sections including USD Road were planned to be completed in Q3 2022 under the original financing (L3667), which was updated to Q3 2024 in the additional financing (L3786). By the time of tourism season starting in 2022, the Complainant and the individual were given clear information on a road construction schedule. During the meeting with the Complainant and the individual on 26 May 2022, PIU informed them of project schedules, including their section (under CWI-2) civil works for which was scheduled to commence from mid-July 2022 with plans to connect the main entire UB Road corridor via paved road by the end of 2022. PIU also informed that the Parliament-level working group was accelerating the road construction within 2022.</td>
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5. The project has not completed even today and lots of lives and businesses are suffering from incomplete road

*Note: Today could mean the date of the original allegation made in March 2022*

Refer to allegations #2, #3, and #4 and corresponding ADB responses.

In addition, in accordance with the schedule in the Project Administration Manual, the construction works are scheduled to be completed by Q3 2024. As of May 2023, works for CWI-1, CWI-3 and CWI-5 stand at 95% completion; works for CWI-4 and CWI-6 are at 72% and 49% completion, respectively.

Works progress on Lots CWI-1 and CWI-2 is directly pertinent to the complaint based on the Complainant’s physical location (44.35km point on section CWI-2), and is hence discussed in more detail here. Generally, there were challenges related to the slow performance of the terminated contractors for Lots CWI-2 and

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<td>CWI-4 in 2018; performance issues were caught in a timely manner with these two lots re-tendered and works relaunched during the 2021 work season. Prior to the retendering of CWI-2, the contractor for CWI-3 had been mobilized in Spring 2020 to complete repairs on four affected stretches of the CWI-2. At the time of the filing of the complaint in March 2022, the relevant sections of the road were at 94% completion for Lot CWI-1 and about 19% for Lot CWI-2 (now at 72% and, as mentioned above, on schedule to be completed in Q3 2024 in line with the Project’s DMF milestones).</td>
<td>In terms of the road accessibility during construction, importantly an uninterrupted access was ensured at all times for all lots as part of the mitigation strategy. Specifically for Lots CWI-1 and CWI-2, contractors were mobilized on site in June 2019 and July 2019, respectively. For Lot CWI-1, accessibility was maintained through the paved existing diversion road for the first 17 km of the lot, and through the temporary road for the remainder of the lot. Accessibility for Lot CWI-2 was maintained through a temporary road alone. All temporary roads were gravel roads that were water sprayed by CWI-2 contractor regularly to reduce the amount of dust and keep them motorable. Given that the working season in Mongolia is limited to the months of April-September/October, the traffic was switched to the main UBD Road for the non-construction period between November 2019-mid April 2020. Thus, overall for the 2019 project implementation period, the traffic mostly relied on the paved diversion road, and intermittently on the unpaved temporary roads to bypass a smaller segment of the CWI-1 lot as well as the four dispersed tackled sections (about 10 km in total length) under lot CWI-2 where works were delayed by the subsequently terminated CWI-2 contractor. Travel time for section CWI-1 was thus not significantly affected, while the same was somewhat affected for the section CWI-2 when travelling on road stretches tackled by the terminated contractor in 2019 (affected locations were chainages km 0.0-3.0, km 16.5-19.0, km 19.9-21.5, km 21.5-25.5).</td>
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<td>COVID-19 restrictions were enforced since 12 February 2020 which was prior to the re-launch of the construction season, the development that effectively brought all international and local traffic to a halt in 2020. The COVID-19 regulations introduced the following measures: complete cessation of international traffic; a ban on entry of foreign travelers, entry and exit bans for quarantine areas, ban of assembly within the country, and suspension of local traffic (e.g., there were suspensions of local traffic on Ulaanbaatar-Darhan-Uul province). Thus, vehicular traffic was channeled through the regular UBD Road during January-March 2020 due to the winter season, with very limited traffic otherwise feasible after the introduction of COVID-19 movement restrictions in March and April 2020. The CWI-3 contractor during August-October 2020 resurfaced the four stretches that were tackled but not fully completed by the terminated CWI-2 contractor during 2019, and the existing UBD Road alignment continued to be used between November 2020-August 2021 on this section till works were re-launched. Works continued for less than two months by a new contractor in 2021. Thus, for 2021, the temporary access road was used only for less than a total of two months and only along the CWI-2 alignment. Lot CWI-2 was then brought to a near completion during the May-September period of 2022.</td>
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As mentioned above, the access point to the Complaint’s resort or Dugar Khad Travel company (DKTU) is located at the 44.35 km point of the CWI-2. Earthworks affecting the access road leading to the resort started in mid to end of July 2022, which was after the complaint had been filed, and were undertaken under the EBRD project. The earthworks were not on the original stretch of existing UBD project road being rehabilitated by ADB, but were instead on the land comprising the (two additional lanes) widening of the road under the scope of EBRD-financed project. However, the EBRD section contractor confirmed that a crossover ramp to the resort access road had always been maintained, albeit it shifted slightly in...
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<tr>
<td>6. The condition of the existing road in 2019 was good only required few potholes filling.</td>
<td>This Project was prioritized by the Mongolia government as part of its development strategy, priorities and policies. The first 108 km of the UBD Road was laid in 1943 and the entire road was completed in 1972. Between 1996 and 2000, 144.5 km of road were rehabilitated with ADB funding. Later, from 2014 to 2015, a total stretch of 25.4 km road underwent routine maintenance with a Mongolian Development Bank investment and state budget allocations. Due to insufficient funds for regular and timely periodical maintenance, the road condition deteriorated to the extent that rehabilitation was needed. According to “Road and Bridge Maintenance Work Cost Basic Norm” (ZZBD 84-021-2016), any state road shall undertake rehabilitation work after two periodical maintenances, each performed every 6 years. This effectively means every state road shall be rehabilitated every 12 years. By the time the subject project started, UBD road was under its 19-year operational life since the first rehabilitation work. According to the Social Development and Gender Action Plan (SDGAP) in 2013, one of the most challenging issues identified by local communities was the poor condition of road infrastructure, supporting the need for rehabilitation of the UBD Road. According to the project’s IIE 2018, local consultation noted that the road between UB and Darkhan is poor quality and broken at several points. Thus, local stakeholders wanted to see the UB-Darkhan road rehabilitated because an improved road corridor would be an advantage for the development of the towns, and would contribute to the local business and social service development via faster and safer commute and a reduction of the transportation costs overall.</td>
</tr>
</tbody>
</table>
## Attachment 2: Allegations in the Complaint and Management’s Response

<table>
<thead>
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<tbody>
<tr>
<td>7. Without prior notice in August 2018, suddenly the rehabilitation of the road including removal of existing paved road started. Based on income we earned in year 2018, we lost 200 million$ every year since then.</td>
<td>Refer to allegation #1 and corresponding ADB response.</td>
</tr>
<tr>
<td>8. From that month (August 2019) we lose our 70% of our income and we continue loose our income in 2020, 2021 by 90%.</td>
<td>Refer to allegation #3 and corresponding ADB response.</td>
</tr>
</tbody>
</table>

In addition, based on the business income tax data provided for 2016 and 2018, there was an increase in income from main operations and sale of works and service at 2.56%, i.e., from 2,035,615,713.59 MNT in 2016 to 2,099,534,341.25 MNT in 2018.

The 69% decrease noted in the 2019 profit before tax is mainly attributable to the (i) 33.31% increase in management expenses in 2019 (from 1,016,664,745 MNT in 2018 to 1,355,324,474.65 MNT in 2019); and the (ii) significant increase (1,215 times more than) on the non-core operation expenses from 33,507.23 MNT in 2018 to 40,894,802.00 MNT in 2019.

With reference to loss of income at “200million$ every year since then [2019]”, the business income tax statements showed that the loss before tax in 2020 was 737,230,635.66 MNT (USD 210,637.32) while the loss before tax in 2021 was 528,222,038.25 MNT (USD 160,067.26).

UBD Road has not been completely blocked for traffic since the construction started in 2019. ADB and MRTD have taken necessary actions to control dust and maintain condition on temporary road to divert traffic from UBD main road. Travel time between UB and Darshana has also not been substantially increased by construction. In 2016, estimated travel time on UBD road was 3.1 hours based on the baseline data provided in the DMP. As per the travel time data hours in winter in 2022, when the entire UBD Road became motorable with the completion of the first 5 cm asphalt pavement layer in October 2022, travel time in summer in 2023 has come down to 2.7 hours.

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<tr>
<td>9. The road to our resort is destroyed and we had no way to pay back our</td>
<td>Since there are multiple access roads, it is difficult to say which road this allegation refers to. This allegation lacks specificity and a factual basis. It is unclear whether this allegation is directed towards the works financed by ADB or the works financed by EBRD, or the condition of the access road itself. Access to the public unsurfaced road leading to the Complainant’s property was not compromised throughout the duration of the project construction period. Access along the entire length of the rehabilitation road project was provided through either paved diversion roads, temporary roads maintained by contractors, or sections of the rehabilitated road. Further, contractors confirmed that access from the road, or temporary road, to the public unsurfaced road leading to the Complainant’s property was available throughout construction by means of a graded ramp.</td>
</tr>
<tr>
<td>loan for last three years.</td>
<td></td>
</tr>
<tr>
<td>10. ADB is not working on the social and environmental impact of this</td>
<td>Refer to allegation #1 and corresponding ADB response.</td>
</tr>
<tr>
<td>project or failure to analyze distractions have made to our community.</td>
<td></td>
</tr>
<tr>
<td>11. We have made a lot of complaints and requested the certain information</td>
<td>Refer to allegation #1 and corresponding ADB response.</td>
</tr>
<tr>
<td>from the Ministry of Road and Transport Development of Mongolia. But no</td>
<td></td>
</tr>
<tr>
<td>one is in charge of this uncertain situation and even today the officials</td>
<td></td>
</tr>
<tr>
<td>have no idea about completion of this project’s time.</td>
<td></td>
</tr>
<tr>
<td>12. Please take responsibility on this project and compensate us whoever</td>
<td>As described in responses to allegations #2 and #5 for traffic management, and #1 for overall environment and social management, MRTD undertook a range of mitigation measures to minimize exposure to potential travel disruption.</td>
</tr>
<tr>
<td>is in charge.</td>
<td></td>
</tr>
</tbody>
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<tr>
<td>19 April 2023 Email to CRO</td>
<td>On 16 May 2022, ADB wrote a letter to the Complainant and the individual updating that ADB was following up on their complaint with MRTD. On 26 May 2022, MRTD through the PIU met with the Complainant and the individual, and ADB MNRM joined this meeting. We explained ADB procedures and MRTD UBD road work in regard to their complainant. We promised to share the project information with them and to hire local SOOs. On 5 July 2022, ADB MNRM met with the Complainant and the individual. We updated that (i) a PIU shared all project reports with the Complainant and the individual as promised from a previous meeting of 26 May 2022, and (ii) MRTD enhanced GRM with four local SOOs. We also provided the contact details of GRM, a GRM coordinator – PIU environment and social officer, and local SOO of Bornuur soum. ADB EARD/MNRM also followed up with MRTD and PIU to resolve complaints throughout July 2022–May 2023, through loan review missions, and quarterly portfolio review missions. Because MRTD’s Director-General has changed four times, and the officers in charge of the project monitoring were replaced three times, MRTD’s official response was delayed. EARD/MNRM followed up persistently with MRTD an official response to be delivered to the Complainant and the individual and MRTD provided its response on 21 April 2023 via email and 5 May 2023 in-person to the Complainant and the individual. MRTD informed that the Complainant was not satisfied with the MRTD’s and wish to keep their complaints.</td>
</tr>
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<tr>
<td>14. That person in charge in Benuun soum who does not know about complaints process and ADB.</td>
<td>We assume this allegation as relating to the SOO who is tasked to engage and resolve local-level grievances in coordination with the PIU and contractors.</td>
</tr>
<tr>
<td></td>
<td>In order for GRM to be accessible to local communities and to address grievances at the closest level, MRTD hired four SOOs, each one from the Soums, lowest closest level of administrative units since June 2022. As per the enhanced GRM, a complaint can be submitted to the local SOO via a written complaint form and via telephone call in addition to original GRM set-up where a complaint can be submitted to a contractor directly and at the local administrative unit.</td>
</tr>
<tr>
<td></td>
<td>A local SOO reported daily to a PIU environment and social officer via telephone messages. On 6 July 2022, according to PIU, the local SOO received a telephone call and requested further details of the complaint in writing to be provided to the PIU and parliament member who is in charge of the working group to accelerate UBD Road construction and implementation under the economic standing committee of the Mongolian parliament “State Great Khural”. The Complainant alleged on the call that the SOO did not know what they were doing because the SOO could not provide contact details of the relevant person at ADB. SOO asked the Complainant to submit their complaint officially in writing and offered to collect the written complaint from the Complainant’s premises, but the Complainant declined to submit complaints in writing.</td>
</tr>
<tr>
<td>15. We are really disappointed about ADB complaints mechanism</td>
<td>As in the response to #13 above, ADB EARD/MNRM explained the GRM process to the Complainant on 28 May 2022 during the first meeting. ADB further explained the GRM mechanism again on 5 July 2022 and provided the contact details of both GRM coordinator and local SOO to the Complainant and the individual.</td>
</tr>
</tbody>
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<tr>
<td><strong>21 April 2023 Email to CRO</strong></td>
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</tr>
<tr>
<td>16. We are not satisfied with EARD/Mongolia resident mission so we want to file compliance review panel.</td>
<td>Refer to allegation #13 and corresponding ADB response.</td>
</tr>
<tr>
<td>17. Last time I contact with person in charge of our case at our location but he is not knowledgeable about this complaint filing, procedure and ADB. So I asked him to help us to submit our complaint to ADB office in Ulaanbaatar but he said he is an assistant of parliament member of Mongolia, so he will submit our complaint to this member not ADB. But ADB office in Mongolia asks us to submit him.</td>
<td>Refer to allegation #14 and ADB’s response. As per the enhanced GRM, since June 2022, when a complaint is received the contractor and/or local SOO in area contacted directly. If the complaint cannot be resolved with the contractor, then the complaint is submitted to FIU GRM coordinator who will coordinate outreach with MRTD and the contractors. If that also fails, MRTD would have to take action in coordination with ADB. The SOO was acting in accordance with the requirements of the GRM.</td>
</tr>
<tr>
<td>18. So we believe the procedure is not clear at EARD/Mongolia mission office</td>
<td>Refer to allegations #13 / #14, and corresponding ADB responses.</td>
</tr>
<tr>
<td>19. We do not wish to contact any officer in Mongolia we would like to go with Compliance review</td>
<td>Refer to allegation #16 and corresponding ADB response.</td>
</tr>
<tr>
<td><strong>27 April 2023 Email to CRO</strong></td>
<td></td>
</tr>
<tr>
<td>20. First, we have submitted complaint on 5th of July 2021 to Ministry of Road Transportation of Mongolia. But they never responded to our complaint. Therefore, we submitted request on 31 March 2022 about complaint of project number 48186-005 to ADB. And they responded that they requested the Ministry of Road and Transport Development to respond to our complaint with details. Still, we did not have a respond.</td>
<td>Refer to allegation #14 and corresponding ADB response.</td>
</tr>
</tbody>
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<tr>
<td>21. They (MRTD) blamed all the blame on Covid. But ADB’s financing project was signed on 18th of June 2019. At that time no Covid was detected.</td>
<td>The UBD Road rehabilitation work started in June 2019. The ADB mission in November 2019 observed that the progress of the sections of CWI-2 and CWI-4 was slow due to poor performance of the Contractor (one Contractor for two lots) and MRTD intended to terminate the contracts. The contracts were terminated in August 2020. At the end of 2019, the contractor for CWI-2 and CWI-4 executed 9.49% and 5.30% of works. Termination of poor performed contractors for Lots CWI-2 and CWI-4, followed by border closure and COVID lockdowns were causes for the slowed project implementation.</td>
</tr>
<tr>
<td>22. Without any prior notice rehabilitation of the Dakhlan Road including removal of existing paved road had suddenly started.</td>
<td>For meaningful consultation please refer to response #7. For IEE disclosure please refer to response #1. For GRM please refer to response #1. The Ministry and Traffic Police Department disseminated project information for local citizens and authorities along the route March–April 2019. MRTD also confirmed that, pursuant to MRTD’s Ministerial order 192 dated 13 June 2019, the ministry organized a media conference at the Road Transport National Center on 15 June 2019 and disseminated the decision on the project commencement and transitioning traffic to the temporary road through various media channel for wider publicity in general public. The partial closure of the UBD Road was also publicized through several news outlets prior to commencement of works.</td>
</tr>
<tr>
<td>23. Until that day we run the business normally. From that month, we lose our 70% of our income and we continue lose our income in 2020,2021 by 90%. We had made 1 million $ investment on our resort in 2019 with bank loan and when we had just started pay back the loan to the bank. Unfortunately, the road to our resort is destroyed.</td>
<td>Refer to allegation #9 and corresponding ADB response.</td>
</tr>
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<tr>
<td>and we had no way to pay back the loan for last three years. Now our accumulated bank interest is 100,000$ and loan itself 1 million$. Based on income we earned in year 2018, we lost 200 million$ every year since then.</td>
<td>Refer to allegations #13 and #14 and corresponding ADB responses.</td>
</tr>
<tr>
<td>24. On June 29 of 2022, we had Zoom Call with Mr. Shigeru Yamamura and Mr. Erdensaikhan at ADB. On July 5th, Mr. Erdensaikhan sent us the letter about following the GRM process. Also, he gave us the phone number of person in charge at soum level and that person should report to ADB in Mongolia. I have contacted the person but he does not know about ADB and its procedures. So our complaint is stopped in that early stage</td>
<td>Involuntary Resettlement Safeguard. In accordance with the SPS, due diligence on the Involuntary Resettlement (&quot;IR&quot;) safeguard was conducted and the associated impacts and risks were assessed during project preparation. Due diligence at the project processing stage confirmed that the project would not involve involuntary resettlement impacts since improvement of the existing 2-lane road would be within the existing road right-of-way. It was expected that the road safety features would not involve involuntary resettlement impacts either. Given that safety improvements would be in the form of road markings, barriers, and guide posts. However, the project took a precautionary approach and categorized IR safeguard as Category B and developed a Resettlement Framework (RF) in accordance with the SPS. The RF identified defined procedures for conducting due diligence and preparation of resettlement plans, as necessary. It also stated that the design and implementation would make every effort to avoid and minimize land acquisition and resettlement impacts, including temporary impacts during construction. The RF was disclosed on ADB's website on 9 June 2017.</td>
</tr>
<tr>
<td>25. At this Darkhan road project ADB did not follow Social Safeguard policy</td>
<td></td>
</tr>
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<tr>
<td>In a loan review mission in January-February 2022 it was agreed that a precautionary approach would be taken in accordance with SPS and that additional resettlement due diligence would be conducted to ascertain compliance with ADB's involuntary resettlement safeguards for the project. The resettlement due diligence was carried out by MRTD in February and March 2022 and it was reconfirmed that the project did not result in any involuntary resettlement impacts; therefore, the project continued to maintain the resettlement framework, and no resettlement plans have been required to date. The resettlement due diligence report was disclosed to the ADB project website in March 2022.</td>
<td></td>
</tr>
<tr>
<td><strong>Indigenous Peoples Safeguard.</strong> Impacts on ethnic minorities were assessed. There are no ethnic communities that would be affected by the project, hence it was categorized C for indigenous peoples safeguard.</td>
<td></td>
</tr>
<tr>
<td>26. ... and we are the one of many organizations and individuals who are directly affected.</td>
<td>The Complainant's resort is 8 km away from the road where ADB-assisted rehabilitation works are ongoing. As a result, the resort was not deemed as affected during project preparation nor when social safeguard due diligence was updated in 2022. In addition, the road was never completely closed due to construction, except when COVID-19 restrictions were imposed.</td>
</tr>
<tr>
<td><strong>28 April 2023 Email to CRO</strong></td>
<td></td>
</tr>
<tr>
<td>27. I forgot to attach the photos with my last email. Here are some photos.</td>
<td>Those photos lack context and supportive explanations.</td>
</tr>
<tr>
<td>Photo 1</td>
<td></td>
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<td>Photo 2</td>
<td></td>
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<td>Photo 3</td>
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<td>Photo 4</td>
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<td>Photo 5</td>
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<td>Photo 6</td>
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<td>Photo 7</td>
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<tr>
<td>Photo 8</td>
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<tr>
<td><strong>Photo 9</strong></td>
<td></td>
</tr>
<tr>
<td><strong>28 April 2023 Email to CRO</strong></td>
<td></td>
</tr>
<tr>
<td>28. ADB is not following its own social and environmental safeguard policy</td>
<td>Refer to allegation #1 and corresponding ADB response, and see Attachment 3)</td>
</tr>
<tr>
<td>29. ADB’s financing infrastructure projects are intended to benefit domestic people but due to failure if monitoring the project No65165-005 Mongolia</td>
<td>Refer to allegation #1 and corresponding ADB response.</td>
</tr>
<tr>
<td>30. There are severe economic, social and environmental risks affecting communities, businesses, and vulnerable groups.</td>
<td>Refer to allegation #1, #2, #3 and its corresponding ADB responses.</td>
</tr>
<tr>
<td>31. ADB is not monitoring its project in Mongolia and ADB’s office in Ulaanbaatar is reporting as no one is negatively affecting by this project. Even today they are reporting false and shameless information.</td>
<td>ADB monitors project implementation on a regular basis through periodic reporting submitted by the PIU and through regular project review missions. Environmental monitoring reports (EMR) are submitted bi-annually to ADB from the PIU and disclosed on the ADB website. EMRs provide details of how each contract’s package is managed and monitored. For further details on mitigation measures, monitoring and disclosure please refer to responses #1, #31 and #35. In addition to the reporting by the PIU (MRTD), ADB conducted a due diligence which includes details of consultations and written letters of local authorities during February-March 2022. In October 2022, an additional safeguards mission was fielded to review project impacts and update project due diligence; this mission made recommendations for enhanced due diligence and resulted in an enhancement to the GRI.</td>
</tr>
</tbody>
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<td>32. We have seen the report written by PIU Environmental specialist from Ministry of road and transportation Mr. M. Batbayarssglen submitted to ADB. On the report, that no organisms, no individuals, any species of animals will be negatively affected by this project.</td>
<td>Refer to response #1 that shows commensurate assessment of impacts was conducted in line with policy requirements.</td>
</tr>
<tr>
<td>33. As I can count there are at least 30 tourist camps, 6 livestock farms, 6 stop by restaurants, 1 zoo, more than 100 agricultural companies and thousands of households located through this Road. On August of 2019, without any prior notice rehabilitation of the road had suddenly started.</td>
<td>Refer to allegations #1 and its corresponding ADB response.</td>
</tr>
<tr>
<td>34. We did not know about this project.</td>
<td>Refer to allegations #1 and its corresponding ADB response.</td>
</tr>
<tr>
<td>35. They removed existing paved road and made temporary road. But the temporary road was impassable, dusty, limited visible and dangerous to travel.</td>
<td>For allegation relating to Traffic Management and Road Safety, refer to response #2.</td>
</tr>
<tr>
<td></td>
<td>The temporary road design was conducted and verified in May 2019, in which included a total of 207 km length (for CWI-1: 27 km, CWI-2: 50.9km, CWI-3: 45.85, CWI-4: 44.25km and CWI-5: 39.7km) of temporary road was designed.</td>
</tr>
<tr>
<td></td>
<td>Fugitive dust is commonly generated from construction activities. To mitigate and manage such impacts, the EMP outlines generic dust suppression measures to be implemented to maintain fugitive dust levels (total suspended particles) within national thresholds. Mitigation measures, set out in the EMP, were used to develop Construction Environmental Management Plans (CEMP) by each contractor.</td>
</tr>
<tr>
<td></td>
<td>On-site monitoring reports were compiled by the PIU and submitted to ADB. Monitoring reports are disclosed on the ADB website. Environmental monitoring reports from January–June 2022, and July - December 2022 show air quality monitoring samples were</td>
</tr>
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<td>collected periodically by a certified company (MNAS) authorized by the</td>
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<tr>
<td>Mongolian government. Results provided by MNAS, analyzed at an independent</td>
<td>with appropriate permission.</td>
</tr>
<tr>
<td>laboratory, show no air quality samples exceeded national standards for</td>
<td></td>
</tr>
<tr>
<td>total suspended particulate (TSP) matter along the CWI-2 package. EMR</td>
<td></td>
</tr>
<tr>
<td>January–June 2022 states: &quot;According to the sampling data, the amount of</td>
<td></td>
</tr>
<tr>
<td>the main pollutants and dust in the sampled areas did not exceed the</td>
<td></td>
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<tr>
<td>standards throughout reporting period&quot;. Air quality results are annexed in</td>
<td></td>
</tr>
<tr>
<td>each environmental monitoring report. Further, the two monitoring reports</td>
<td></td>
</tr>
<tr>
<td>spanning the period January–December 2022, evidence dust suppression</td>
<td></td>
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<tr>
<td>measures were applied along the temporary road. EMRs state: &quot;As mitigation</td>
<td></td>
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<tr>
<td>measures, the contractor CWI-2 deploys a total of 4 water spray trucks</td>
<td></td>
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<tr>
<td>for watering along the temporary roads to reduce dust. The temporary road</td>
<td></td>
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<tr>
<td>is maintained on a daily basis, with one engineer in charge of temporary</td>
<td></td>
</tr>
<tr>
<td>road, four water trucks, one excavator, and truck loaders and motor</td>
<td></td>
</tr>
<tr>
<td>graders as needed to reduce the dust and maintain temporarily road</td>
<td></td>
</tr>
<tr>
<td>condition. Additional reports provided by the construction supervisor</td>
<td></td>
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<tr>
<td>show that the contractor applied water along the temporary roads as</td>
<td></td>
</tr>
<tr>
<td>frequently as 16 times each day to suppress dust.</td>
<td></td>
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</table>

A state authorized quarry/borrow pit is located approximately 600m from    |
the individual's farm. It was apparent during an ADB safeguards review    |
mission to the site that the borrow pit was being used by an EBRD        |
contractor to construct the new road. No other ADB project borrow pit or    |
quarry, utilized for the CWI-2 package, is located within 1000m of the    |
individual's property. Use of government authorized borrow pits and quarry |
sites require the issuance of a permit by relevant government departments. |
Contractors are legally required to pay to access such sites and are        |
responsible for their rehabilitation after use. Specific borrow and        |
quarry locations with coordination points are reported and disclosed in    |
the project EMR.
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<td>In 2018, ADB and MRTD missions agreed to take dust reduction and safety enhancement measures on the temporary roads gravelling by reallocating $1,623,449 from unused loan balances. In 2022, ADB and MRTD also discussed to control the dust and improve temporary condition for road safety, including an increase in water spray frequency, provision of top soil, and safety sign board.</td>
<td></td>
</tr>
</tbody>
</table>

36. Due to this bad road condition more than 20 people were died, 340 accidents were registered
Refer to allegation #2 and ADB's corresponding response. According to Traffic Police official letter dated 22 April 2022, during the subject project implementation period from 2019 until above date, there were no petitions and complaints submitted regarding road condition by provincial and local residents to the Transport Police Department and the local police units.

37. … hundreds of businesses lose income in just half year from August 2019 to April 2020.
Unemployment decreased in Darkhan and Tuv provinces (where the Complainant and the individual are located) compared to 2019. Darkhan had a 12.5% unemployment in 2020 compared to 18.7% in 2019. Tuv province had 2.8% in 2020 compared to 4.7% in 2019.

38. Here is the news link of the families of who were killed on this road filed the complaints in court.
https://koh.mn/31uy
Refer to allegation #2 and its corresponding ADB response.

39. But one morning of August 2019 we do not have road to travel from Ulaanbaatar city and all reservations made at our resort was cancelled.
Refer to allegation #5 and corresponding ADB response.

40. On August, 2019 there was no clue about COVID. No covid was detected in this world by this time. But only due to bad road condition, our income was drastically fallen, which can be clearly seen from our balance sheet submitted to Mongolian tax office comparing to year 2018. (attached to this email)
Refer to allegations #3 and #8 and corresponding ADB responses.

24

*INTERNAL. This information is accessible to ADB Management and staff. It may be shared outside ADB with appropriate permission.*
## Attachment 2: Allegations in the Complaint and Management’s Response

<table>
<thead>
<tr>
<th>Complaint</th>
<th>Management’s Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>41. From that month, we lost our 70% of our income and we continue lose our income in 2020, 2021 by 90%.</td>
<td>Refer to allegation #9 and corresponding ADB response.</td>
</tr>
<tr>
<td>42. Unfortunately, the road to our resort is destroyed and we had no way to pay back the loan for last three years. Now our accumulated bank interest is 100,000$, and loan itself 1 million$. Based on income we earned in year 2018, we lost 200 million$ every year since then. We are nearly bankrupt.</td>
<td>Refer to allegations #1 and corresponding ADB responses.</td>
</tr>
<tr>
<td>43. At this project, there is not any appropriately designed plan for communities that may adversely impact.</td>
<td>Refer to allegations #1 and corresponding ADB responses.</td>
</tr>
<tr>
<td>44. No programs on social, environmental management and resettlement.</td>
<td>Refer to allegations #1 and corresponding ADB responses.</td>
</tr>
<tr>
<td>45. They (MRTD or PIU?) also report false optimistic information to ADB and told us not to report to ADB office.</td>
<td>Refer to allegations #1 and corresponding ADB responses.</td>
</tr>
<tr>
<td>47. We had Zoom meeting with head office in Manila and Shigeru Yamamura. But one one is helping to identify and address adverse impacts we are facing through these years.</td>
<td>After several attempts of meeting request from ADB, the Complainant and the individual agreed to meet EARD/MNRM (Shigeru and Erdenesalkhan) on 5 July 2022.</td>
</tr>
<tr>
<td>48. ADB’s safeguard policies aim to increase local benefits and doing no harm to the humans, social and natural assets. But in real life, this aim is opposite in Mongolia.</td>
<td>ADB developed IEE and SDGAP and were available since 2018. The project EMP was monitored periodically. ADB monitoring missions followed up.</td>
</tr>
<tr>
<td>50. ADB is not appropriately monitoring its project implementation</td>
<td>Refer to allegation #1/ #13/ #17 and corresponding ADB responses.</td>
</tr>
</tbody>
</table>

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### Attachment 2: Allegations in the Complaint and Management's Response

<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>51. ... lack of responsibility on following their own policy and regulations.</td>
<td>Refer to allegation #11/ #13/ #17 and corresponding ADB responses.</td>
</tr>
</tbody>
</table>
## Attachment 3: Compliance with ADB’s SPS and its Operational Manual Section F1

### A. Categorization

<table>
<thead>
<tr>
<th>Environment (ENV)</th>
<th>Involuntary Resettlement (IR)</th>
<th>Indigenous Peoples (IP)</th>
</tr>
</thead>
<tbody>
<tr>
<td>- ENV Category B</td>
<td>- IR Category B</td>
<td>- IP Category C</td>
</tr>
<tr>
<td>- Draft national Initial Environmental Examination (IEE) disclosed on 02 January 2019</td>
<td>- Resettlement Framework was disclosed on 9 June 2017.</td>
<td></td>
</tr>
<tr>
<td>- Draft IEE disclosed in May 2018 on ADB website</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### B. Compliance with ADB Environmental Safeguards Requirements and with OM F1

<table>
<thead>
<tr>
<th>OM F1 Applicable Paras</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Screening and categorization</td>
<td>Performed, project is category B, categorization form signed and dated 11 May 2017</td>
</tr>
<tr>
<td>2. Project Design and Preparation</td>
<td></td>
</tr>
<tr>
<td>a. Preparation and Review of Environmental and Social Assessments and Plans</td>
<td>IEE prepared.</td>
</tr>
<tr>
<td>b. Information Disclosure</td>
<td>IEE disclosed</td>
</tr>
<tr>
<td>c. Consultation and Participation</td>
<td>Consultations duly performed and recorded (see dates below)</td>
</tr>
<tr>
<td>d. Project Appraisal</td>
<td>The following was confirmed: safeguard measures recommended in the EMP are integrated into the project design; MRTD has the capacity to implement the EMP and financing arrangements for implementing the EMP are in place.</td>
</tr>
<tr>
<td>e. Report and Recommendation of the President</td>
<td>Para included, IEE and all other environment documents included as annexes to the RRP.</td>
</tr>
<tr>
<td>3. Legal Agreements</td>
<td>Clauses included</td>
</tr>
</tbody>
</table>

#### SPS Policy Principles (Environment)

<table>
<thead>
<tr>
<th>Comment</th>
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</thead>
<tbody>
<tr>
<td>In 2016, ADB completed an initial desk study review and determined that, due to the anticipated nature and scale of potential impacts from the road rehabilitation, the project should be categorized B.</td>
</tr>
<tr>
<td>An IEE was completed for the Project with the scope considered to be commensurate with the significance of potential impacts and risks of the Project, in compliance with SPS. The draft IEE was disclosed in May 2018. The IEE was prepared by a team comprising of local and international experts.</td>
</tr>
<tr>
<td>The IEE was developed with baseline data collected from during 2017. Water quality and soil chemical analysis was undertaken at the soil laboratory of the Geo-Ecological Institute of</td>
</tr>
</tbody>
</table>

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<table>
<thead>
<tr>
<th>SPS Policy Principles (Environment)</th>
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</thead>
<tbody>
<tr>
<td><strong>Mongolia</strong>. Air quality data was provided by the Meteorological Institute of Darkhan. Cumulative impacts were not required to be assessed as a part of the IEE assessment as ADB was notified that any future road expansion projects would not proceed until the completion of the road rehabilitation project. At the time of project processing, there was no indication that any other project would be developed within the project's area of influence.</td>
<td></td>
</tr>
<tr>
<td>A requirement to examine alternatives is not applicable to this project as the project was not anticipated to have &quot;significant adverse environmental impacts that are irreversible, diverse, or unprecedented&quot;.</td>
<td></td>
</tr>
<tr>
<td><strong>3. Examine alternatives to the project's location, design, technology, and components and their potential environmental and social impacts and document the rationale for selecting the particular alternative proposed. Also consider the no project alternative.</strong></td>
<td></td>
</tr>
<tr>
<td>The project was developed following the mitigation hierarchy whereby impacts were avoided as far as possible. It was predicted that risks and impacts associated with the road rehabilitation project would be site-specific; few if any of them irreversible and adequate mitigation measures could be applied. The costs for these were included in the project cost and the Contractors Bill of Quantities. An Environmental Management Plan (EMP) has been developed which details all aspects of environmental management that must be implemented during Project implementation, including roles and responsibilities for the Contractor, MRTD, and ADB as well as all management and mitigation measures that need to be implemented for the project. The EMP also lists the requirements for a further sub-set of management plans, to be completed by the Contractor. A Monitoring Plan and budget has been developed for the construction period to be implemented by the Contractor and MRTD.</td>
<td></td>
</tr>
<tr>
<td><strong>4. Avoid, and where avoidance is not possible, minimize, mitigate, and/or offset adverse impacts and enhance positive impacts by means of environmental planning and management. Prepare an environmental management plan (EMP) that includes the proposed mitigation measures, environmental monitoring and reporting requirements, related institutional or organizational arrangements, capacity development and training measures, implementation schedule, cost estimates, and performance indicators. Key considerations for EMP preparation include mitigation of potential adverse impacts to the level of no significant harm to third parties, and the polluter pays principle.</strong></td>
<td></td>
</tr>
<tr>
<td>A total of 120 herdsmen were consulted in March 2018. The views of the consuees were taken into account as far as possible and the IEE provides a summary of the issues raised during consultation and how they have been addressed by the Project. The IEE also sets out details of the Grievance Redress Mechanism (GRM) and information on</td>
<td></td>
</tr>
<tr>
<td><strong>5. Carry out meaningful consultation with affected people and facilitate their informed participation. Ensure women's participation in consultation. Involve stakeholders, including affected people and concerned nongovernment organizations, early in the project preparation process and ensure that their views and concerns are made known to and understood by decision makers and taken into</strong></td>
<td></td>
</tr>
</tbody>
</table>

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<tr>
<td>account. Continue consultations with stakeholders throughout project implementation as necessary to address issues related to environmental assessment. Establish a grievance redress mechanism to receive and facilitate resolution of the affected people's concerns and grievances regarding the project's environmental performance.</td>
<td>this mechanism was disseminated during IEE preparation and since Project approval.</td>
</tr>
<tr>
<td>6. Disclose a draft environmental assessment (including the EMP) in a timely manner, before project appraisal, in an accessible place and in a form and language(s) understandable to affected people and other stakeholders. Disclose the final environmental assessment, and its updates if any, to affected people and other stakeholders.</td>
<td>The draft IEE was disclosed in May 2018 on ADB website.</td>
</tr>
<tr>
<td>7. Implement the EMP and monitor its effectiveness. Document monitoring results, including the development and implementation of corrective actions, and disclose monitoring reports.</td>
<td>While the loan was considered effective from 21 August 2018 and additional project financing effective from 5 November 2019, limited project activities have still occurred to date due to COVID-19 and significant issues with the 2 contractors’ ability to mobilize and then work. The EMP continues to be implemented effectively. To date, four (4) Environmental Monitoring Reports spanning from June 2019 – December 2022 was disclosed on ADB’s website.</td>
</tr>
<tr>
<td>8. Do not implement project activities in areas of critical habitats, unless (i) there are no measurable adverse impacts on the critical habitat that could impair its ability to function, (ii) there is no reduction in the population of any recognized endangered or critically endangered species, and (iii) any lesser impacts are mitigated. If a project is located within a legally protected area, implement additional programs to promote and enhance the conservation aims of the protected area. In an area of natural habitats, there must be no significant conversion or degradation, unless (i) alternatives are not available; (ii) the overall benefits from the project substantially outweigh the environmental costs, and (iii) any conversion or degradation is appropriately mitigated. Use a precautionary approach to the use, development, and management of renewable natural resources.</td>
<td>The Project was not required to complete a detailed assessment of impacts to biodiversity as no key habitats were known to exist within the project's area of influence.</td>
</tr>
<tr>
<td>9. Apply pollution prevention and control technologies and practices consistent with International good practices as reflected in internationally recognized standards such as the World Bank Group’s Environmental, Health and Safety Guidelines. Adopt cleaner production processes and good energy efficiency practices. Avoid pollution, or, when avoidance is not possible, minimize or control the intensity or load of pollutant emissions and discharges, including direct and</td>
<td>During the construction phase, pollution controls will be managed through the implementation of the EMP. Mongolian national standards have been followed with regards to both air quality and noise monitoring. National ambient standards are set out within the IEE will need to be met by the Contractor during construction. Accordingly, mitigation measures for fugitive dust impacts continue to be applied during the construction period.</td>
</tr>
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</table>
### SPS Policy Principles (Environment)

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</thead>
<tbody>
<tr>
<td>Once operational, relevant national and local government agencies will be responsible for monitoring and managing pollution prevention and control requirements for the road.</td>
</tr>
<tr>
<td>Potential occupational health and safety impacts and suitable mitigation measures have been included in the IEE. As well as 'suitable conditions of work' (National Standard on Occupational Health and Safety MNS 5002:2000) being constituted by national law, the Contractor is also required an Emergency Response Plan all of which must be completed endorsed and approved prior to the start of works.</td>
</tr>
<tr>
<td>The IEE illustrated no cultural heritage would be impacted.</td>
</tr>
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</table>

#### C. Compliance with ADB Involuntary Resettlement Safeguard Requirements and OM F1

<table>
<thead>
<tr>
<th>OM F1 Applicable Parans</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Screening and Categorization</td>
<td>Performed. Output 2 did not trigger the Involuntary Resettlement safeguard based on screening and social assessment. The project was classified as Category B for IR since sites for Output 3 (road safety and climbing lane) were not yet identified. It was expected that the proposed maintenance works will be of a similar nature to these identified already for Output 2.</td>
</tr>
<tr>
<td>Project Design and Preparation</td>
<td>A resettlement framework was prepared to guide the screening and preparation of a resettlement plan, if needed. The resettlement framework was disclosed on the ADB website on 9 June 2017.</td>
</tr>
<tr>
<td>Legal Agreements</td>
<td>Clauses included.</td>
</tr>
<tr>
<td>Project Implementation</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>ADB's safeguard policy</th>
<th>Comment</th>
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</thead>
<tbody>
<tr>
<td>Policy principle 1: Screen the project early on to identify past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning through a survey</td>
<td>Involuntary Resettlement Safeguard. In accordance with the SPS, impacts and risks in relation to Involuntary Resettlement (IR) safeguard were diligenced and assessed during project</td>
</tr>
<tr>
<td>ADB's safeguard policy</td>
<td>Comment</td>
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<td>---------------------------------------------------------------------------------------</td>
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</tr>
<tr>
<td>and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks.</td>
<td>preparation. Due diligence at the project processing stage confirmed that the project would not involve involuntary resettlement impacts since improvement of the existing 2-lane road would be within the existing road right-of-way. It was expected that the road safety features would not involve involuntary resettlement impacts either, given that safety improvements would be in the form of road markings, barriers, and guide posts. However, the project took a precautionary approach and categorized IR safeguard as Category B and developed a Resettlement Framework (RF) in accordance with the SPS. The RF identified defined procedures for conducting due diligence and preparation of resettlement plans, as necessary. It also stated that the design and implementation would make every effort to avoid and minimize land acquisition and resettlement impacts, including temporary impacts during construction. The RF was disclosed on ADB’s website on 9 June 2017.</td>
</tr>
<tr>
<td>Policy principle 2: Carry out meaningful consultations with affected persons, host communities, and concerned nongovernment organizations. Inform all displaced persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programs. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and indigenous Peoples, and those</td>
<td>Not applicable. The IR safeguard principle is not triggered.</td>
</tr>
<tr>
<td>ADB's safeguard policy</td>
<td>Comment</td>
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<tr>
<td>---------------------------------------------------------------------------------------</td>
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<tr>
<td>without legal title to land, and ensure their participation in consultations. Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns. Support the social and cultural institutions of displaced persons and their host population. Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase.</td>
<td>Not applicable. The IR safeguard principle is not triggered.</td>
</tr>
<tr>
<td><strong>Policy principle 3:</strong> Improve, or at least restore, the livelihoods of all displaced persons through (i) land-based resettlement strategies when affected livelihoods are land based where possible or cash compensation at replacement value for land when the loss of land does not undermine livelihoods; (ii) prompt replacement of assets with access to assets of equal or higher value, (iii) prompt compensation at full replacement cost for assets that cannot be restored, and (iv) additional revenues and services through benefit sharing schemes where possible.</td>
<td>Not applicable. The IR safeguard principle is not triggered.</td>
</tr>
<tr>
<td><strong>Policy principle 4:</strong> Provide physically and economically displaced persons with needed assistance, including the following: (i) if there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities, and extension of project benefits to host communities; (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (iii) civic infrastructure and community services, as required.</td>
<td>Not applicable. The IR safeguard principle is not triggered.</td>
</tr>
<tr>
<td><strong>Policy principle 5:</strong> Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards. In rural areas provide them with legal and affordable access to land and resources, and in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing.</td>
<td>Not applicable. The IR safeguard principle is not triggered.</td>
</tr>
<tr>
<td><strong>Policy principle 6:</strong> Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.</td>
<td>Not applicable. The IR safeguard principle is not triggered.</td>
</tr>
<tr>
<td><strong>Policy principle 7:</strong> Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement</td>
<td>Not applicable. The IR safeguard principle is not triggered.</td>
</tr>
<tr>
<td>ADB's safeguard policy</td>
<td>Comment</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------</td>
</tr>
<tr>
<td>assistance and compensation for loss of non-land assets.</td>
<td></td>
</tr>
<tr>
<td><strong>Policy principle 8</strong>: Prepare a resettlement plan elaborating on displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule</td>
<td>Not applicable. The IR safeguard principle is not triggered.</td>
</tr>
<tr>
<td><strong>Policy principle 9</strong>: Disclose a draft resettlement plan, including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders. Disclose the final resettlement plan and its updates to affected persons and other stakeholders.</td>
<td>Not applicable. The IR safeguard principle is not triggered.</td>
</tr>
<tr>
<td><strong>Policy principle 10</strong>: Conceive and execute involuntary resettlement as part of a development project or program. Include the full costs of resettlement in the presentation of project's costs and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation.</td>
<td>Not applicable. The IR safeguard principle is not triggered.</td>
</tr>
<tr>
<td><strong>Policy principle 11</strong>: Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout project implementation.</td>
<td>Not applicable. The IR safeguard principle is not triggered.</td>
</tr>
<tr>
<td><strong>Policy principle 12</strong>: Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.</td>
<td>Not applicable. The IR safeguard principle is not triggered.</td>
</tr>
</tbody>
</table>
CWM-1: 37.26 km road section from departure west province roundabout to north of Khar mased pass.

From April 2020—Oct 2020 temporary road used for traffic.

From 01 Nov 2020, Traffic Diverted on AC pavement of 37.26 km road section.

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**Legend:**
- **HD Road**
- **ERD Road**
- **Other Roads**

**Key Points:**
- **Km 0+000 - Km 5+800:** Traffic diverted on existing diversion road and temporary road not required.
- **Km 5+800 - Km 37+200:** PHASE I PROJECT - ADJUSTING CONTRACTOR W/ILS KHOWRANG.
  - UNPAVED ROAD AND BRIDGE, OWNER SHALL BE RESPONSIBLE FOR MAINTENANCE OF TEMPORARY ROAD.
CWL-3: 45.74 km road section from Ukhana to Sumber Intersection
From April 2020-Oct 2020 & From April 2021-June 2021 temporary road used for traffic. From 1 July 2021, traffic diverted on AC pavement of 45.74 km road section

Phase I Project, Aid Financed Contractor M/S. Suffolk Highway Engineering Group Co. Ltd. SHALL BE RESPONSIBLE for Maintenance of Temporary Road
Appendix 2

CWI-4: 45.08 km road section from Sumber Intersection to Tualam valley

PHASE I: PROJECT ASSUMES RESPONSIBILITY FOR MAINTENANCE OF TEMPORARY ROAD

PHASE II: PROJECT ASSUMES RESPONSIBILITY FOR MAINTENANCE OF TEMPORARY ROAD

Note: Major work executed in year 2022
Appendix 2

CWI-5: 30.53 km road section from Tsaldam valley to Darkhan roundabout

From April 2020–Oct 2020 & From April 2021–June 2021
Temporary road used for traffic. From 01 July 2021, Traffic
Diverted on AC pavement of 30.53 km road section.

Start KM0+000

End KM39+530

PHASE I PROJECT, AID/FINANCED CONTRACTOR. M/S Geocom Engineering Corporation SHALL
BE RESPONSIBLE for Maintenance of Temporary Road.
Attachment 5

Community consultation meetings hosted by MRTD with local communities and authorities situated along the project road before the project commencement.

MRTD informed ADB and the two complainants that they conducted extensive consultations with local communities and authorities before project construction work commencement, which took place between March and April 2019.

But, MRTD has been unable to provide to ADB written records and summaries on the consultations conducted in 2019. To prove their conducted consultation activities, MRTD have provided some photos below and apprised ADB these are from April 2019 consultation meetings in Bayanchandmani soum¹ of Tuv province (in Lot CW1-1 and Lot CW1-2), Bayangol soum, Selenge province (in Lot CW1-4) and Darkhan soum, Darkhan-Uul province (CW1-5).

For this mission, from MRTD Mr.Orgil-Erdene, former Division Head for Road Maintenance under Road Policy Implementation and Coordination Department (later was working as Acting DG for the aforementioned Department between Oct 2019-Jan 2020); from Traffic Police, Mr. Jargalsaiikhon, Head of Technical and Controlling Division, from PIU, Project Coordinator and other officials attended and met with the local people.

As MRTD asserts, during the meeting the mission team introduced the project, temporary road scheme and informed the project commencement date.

Photo 1. Meeting with the Bayanchandmani soum citizens and officials (Lot CW1-2)

¹ Sub-division of province, according to the Mongolian administrative and territorial unit.
Photo 2. Meeting with Bayangol soum, Selenge province, citizens and officials

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Photo 3. On the display, temporary road which runs on Bayangol soum territory is being demonstrated (Lot CW1-4) From left: Mr. Orgil-Erdene, MRTD
Photo 4. Meeting with Darkhan-Uul soum citizens’ representatives and local authorities.
On auto road closure and route diversion

Pursuant to Clause 2 of Article 24 of the Law of on the Government of Mongolia, paragraph 10.1.9 of Article 10 and Clause 31.1 of Article 31 of the Law on Roads, and Clause 8.3 of Article 8 of the Law on Road transport, it is hereby ORDERED to:

1. Due to the start of capital repairs and renovation of the 204.11 km Ulaanbaatar-Darkhan hard paved road, close the afore-mentioned road and divert vehicle traffic through a temporary route starting from 17 June 2019 until the date of road commissioning by the state.

2. Assign to the Road policy implementation and coordination department (D.Dorjkhaid) the duty to closely supervise implementation and ensure the readiness of the temporary Ulaanbaatar-Darkhan route and the timely completion of planned works with full quality compliance; and assign to the Traffic police department (D.Amarsalkhan) the duty to organize and ensure the safety of the vehicle traffic through the temporary route.

3. Assign to the Transport policy implementation and coordination department (G.Gantulga) and the National road transport center (B.Gursoronson) the duty to take immediate action for organization of international and inter-city passenger transport services and public information dissemination and promotion activities in relation to the closure of the afore-mentioned road.

4. Assign to the Monitoring, evaluation, and internal audit department (M.Enkhbold) the duty to monitor and oversee the execution of this Order.

MINISTER [signature, stamp] B.ENKH-AMGALAN
News outlets on closure of UBD road prior to commencement of ADB-supported civil works.

- https://zaria.mn/em5
- https://foim.mn/article/p1Li17312
- https://news.zinda.mn/2/rr
- https://zaria.mn/em5
- https://newspress.mn/v1/%D0%91%D2%AF%D1%82%D1%8D%D1%8D%D0%BD-%D0%B1%D0%B0%D0%B9%D0%B3%E1%83%D0%BB%D0%B0%D0%BB%D1%82/news/11115
- https://mongoltv.mn/post/62218
- https://googo.mn/r/242558
- https://vip78.mn/content/59126
- http://www.report.mn/15201/item
- https://eguur.mn/11772/
- http://huraldai.mn/n/10k
- https://mra.mn/?p=3523
PERSONS CONSULTED BY THE COMPLIANCE REVIEW PANEL

The Compliance Review Panel (CRP) contacted the following persons, within and outside the Asian Development Bank (ADB), in carrying out its investigation of the request under the Mongolia: Regional Road Development and Maintenance Project.

**ADB Staff**

**East Asia Department (EARD)**

1. Pavit Ramachandran, former Country Director, ADB Mongolia Resident Mission (MNRM), EARD
2. Shannon Cowlin, Officer-in-Charge, MNRM
3. Shigeru Yamamura, Principal Portfolio Management Specialist, EARD
4. Chandra Arora, Portfolio Management Specialist, MNRM
5. Enkh-Ulzii Bayarsaikhan, Transport Officer, MNRM
6. Erdenesaikhan Nyamjav, Environment Officer, MNRM
7. Balabhashkar Reddy Bathula, Regional Head, Operations Coordination, EARD

**Office of Safeguards (OSFG)**

1. Bruce Dunn, Director, OSFG
2. Mailene Radstake, Principal Social Development Specialist (Safeguards), OSFG
3. Shotaro Sasaki, Principal Environment Specialist, OSFG

**Complainants**

1. Lkhanaajav Burentugs, Owner, Dugan Khad Resort
2. Munkhkhishig Altangerel, Staff, Dugan Khad Resort
3. Lkhanaajav Lkhagvajav, Farmer

**Supervising Consultants**

1. Anil Chopra, Team Leader, Intercontinental Consultants & Technocrats Pvt. Ltd. in association with ICT Sain Consulting LLC
2. Adilbsh Dy, Deputy Team Leader
3. Enkhzul, Secretary
4. Altantsetseg Naigal, Environment Specialist
5. Tumendelger Sengedorj, Social Development, Gender and Resettlement Specialist

**Contractors**

1. Mr. Baldangombo, Chief Engineer, Arj Capital, Contractor for Civil Works 1-2
2. Jiang Chengde, Contractor for Civil Works 1-3
3. Undral, Assistant and Interpreter, Contractor for Civil Works 1-3

**Project Implementing Unit**

1. Uuganbayar, Project Coordinator
2. Batbayasgalan, Focal for ES issues
3. Erdene-Ochir, Road Engineer  
4. Nyamsuren, Road Engineer  

Independent Project Accountability Mechanism, European Bank for Reconstruction and Development  
1. Kinga Jaromin, Compliance Associate  
2. Niall Watson, Compliance Lead, Associate Director  

Ministry of Finance  
1. Chimidsuren Choigunsen, Director General, Development Financing and Investment Department  
2. Ganzorig Bulgankhuu, Director, Development Financing Division  

Ministry of Road and Transport Development  
1. S. Batbold, State Secretary  
2. L. Bayanzul, Officer in charge of Road Construction & Production, Road Policy Implementation Coordination Department  
3. Ch. Sugarmaa, Director of Road Maintenance & Repair Division  

Ministry of Environment and Tourism of Mongolia  
1. S. Tsogtgerel, Acting State Secretary  
2. P. Battur, Director, Tourism Policy Regulation Department  
3. Enkhmunkh, Head of Environment Assessment & Audit Division  

National Emergency Management Agency (NEMA)  
Mr. Bayarkhuu, Secretary to State Emergency Commission  

Bornuur Soum Administration Unit Officials  
1. N. Undrakhbileg, Governor, Bornuur soum Tuv aimag  
2. G. Lkhagvadorj, Environment Officer  

Other Organizations  
1. Damba Gantemur, President, National Tourism Association  
2. M. Ariunbold, Head of Road & Traffic Control Division (RTCD)  
3. Mungun, Chief Coordinator, RTCD