

CHAPTER 4

LEGAL AND INSTITUTIONAL MEASURES NECESSARY TO ENSURE IMPLEMENTATION OF SPECIFIC ACTIONS

4.1. Adopt legislation and policies to ensure the conservation of biological diversity that require the integration of conservation and environmental protection into sustainable development.

Action 1

Analyse current laws and policies

Mongolia's Parliament recently adopted fourteen laws on environment and natural resource protection. They represent a first attempt to create an environmental regime capable of repending to a free market economy and protecting biodiversity. Because of the massive nature of the task, some deficiencies in the laws exist such as lack of standards and ambiguities in key provisions. Additionally a policy review is needed to identify government policies that may be inconsistent with biodiversity conservation and sustainable development.

Action 2

Improve laws, regulations and policies affecting biodiversity

Certain legal needs are already known, There is a need for stronger legal protection for threatened and endangered species. The Law on Hunting should be amended to remove rare and very rare animals as exploitable species. A separate law is needed on threatened and endangered species that meets IUCN standards and also meets the requirements of the Convention on International Trade in Endangered Species (CITES).

The Law on Land should be amended to include requirements to protect biodiversity, among them a prohibition on introduction of non-native plants and animals. Wetland legislation is needed to protect valuable resources and rare and endemic species associated with wetlands. The Law on Land should also be amended to disallow local government from taking land within the legal boundaries of protected areas.

Solid waste legislation is needed in order to develop a regulatory framework for the growing problem of solid waste which threatens human health and biodiversity.

State Inspectors and Rangers need clear and sufficient search, seizure and arrest authority, consistent with the protection of human rights.

The Government should emphasize the following general policies:

- Biodiversity conservation and environmental protection will be integrated into all development activities.
- Development must be ecologically and economically sustainable.
- Activities within Mongolia's control will not cause damage to the environment of other states.
- Cooperation with other nations for the conservation of biodiversity is essential
- An ecological approach to resource management is essential to achieve conservation and sustainable development.
- Biodiversity is best conserved in natural rather than in artificial settings.
- Broad public participation in conservation policy making, planning and actions are required.
- The knowledge of local people, such as nomadic herders, should be preserved, respected and used.

Action 3

Clarify mandates between levels of government.

Existing laws create overlapping authorities between local and national government in the administration of protected areas. These problems result in poor management and unnecessary conflicts. The clarification of these mandates is a high priority. The review should attempt to:

- 1) Identify the problem areas where better coordination is needed.
- 2) Propose new legislation or regulations where required.
- 3) Where new laws are not required propose working agreements with identified parties to establish lead roles and common understanding of the laws mutually implemented.

Action 4

Increase public input in the regulatory process.

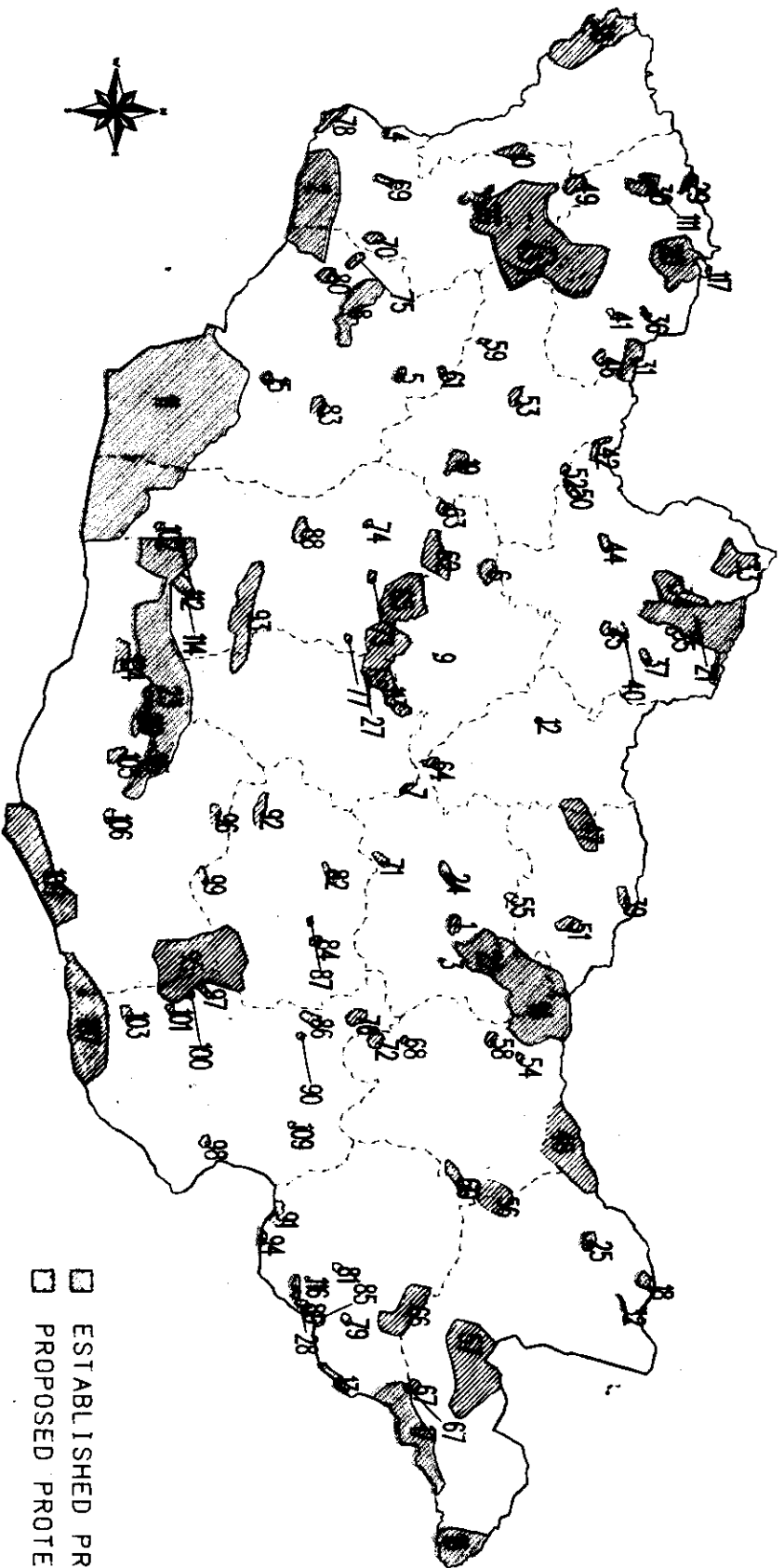
A forum for public participation at both legislative and regulatory levels must allow any and all interested individuals to participate, bringing a depth to the decisions not otherwise available.

4.2. Strengthen institutional arrangements needed to implement the Biodiversity Conservation Action Plan for Mongolia

Due to the economic difficulties and a budget shortage the number of state organizations is expected to be reduced. However, there is general agreement that a strong state central body responsible for environment issues should be in existence in the country, ie the Ministry for Nature and the Environment.

The environmental laws establish responsibilities for various activities at different levels, from the Ikh Khural, the Government, the Ministry for Nature and the Environment, and the National Development Board to the City, Aimag, Sum, Duureg, Bag and Khoroo governors and Khurals, and certified organizations.

ESTABLISHED & PROPOSED PROTECTED AREAS



BIOGEOGRAPHICAL ZONES, ESTABLISHED PROTECTED AREAS, AND PROPOSED PROTECTED AREAS



However, coordination needs to be improved and clear lines of responsibility for biodiversity should be established.

Biodiversity conservation requires cooperative work to evaluate natural resources and to implement the required action programs. These responsibilities are shared by the Ministry for Nature and the Environment, Ministry of Health, Ministry of Trade and Industry, Ministry of Geology Energy and Mining, Ministry of Infrastructure Development, the National Development Board and local governments. The MNE should take the lead in providing necessary coordination for biodiversity conservation, implementation of this plan, and monitoring actions.

Action 1

Clarify lines of responsibility and strengthen local government capacity to implement environmental protection laws.

Local governments have been given many responsibilities in the protection of biodiversity and the environment, including, for example, the management of Nature Reserves and Natural and Historical Monuments. However, they lack the technical and administrative capacity to fulfil their responsibilities. Local administrations vary considerably in their expertise and efficiency in managing resources and in communicating with the public.

Action 2

Local people, through their elected representatives, take up responsibility for local natural resources conservation and utilization policies as delegated to them under the environmental laws.

This requires that encouragement and information on duties and responsibilities be given to local people. Wherever appropriate, protection and use of natural resources should be done in concordance with Mongolian traditions.

Action 3

Increase NGO involvement in the biodiversity conservation program.

Drafting of the law on NGO's is in progress and it is expected that the law will be adopted within two years. This law should continue to allow NGO's to develop their own agenda without constraints from the Government. Biodiversity conservation advocacy by NGO's should be encouraged.

4.3. Seek finances from all possible sources in order to implement the Biodiversity Conservation Action Plan for Mongolia

(a) Government funds

Conservation of biodiversity is necessary for the sustenance of Mongolia's society. Considerable sums of money will have to be allocated for biodiversity conservation

activities in order to achieve the program outlined in this plan. Money invested well in biodiversity conservation will be recouped later. Government has an obligation and a practical need to allocate sufficient funds for biodiversity conservation.

Article 33 of the Law on Environmental Protection requires that environmental and biodiversity conservation be adequately budgeted for by central and local governments. However only a very small percentage of the governments' budget is presently allocated for biodiversity conservation. The budget must be increased as a necessary investment in the future.

Additional funds for conservation should be raised by earmarking at least a percentage of fees, taxes, and fines such as from:

- commercial sales of timber
- grazing licenses
- mining permits
- tourist licenses and permits
- protected area entrance and use permits
- airport taxes
- firearms and ammunition taxes
- hunting and fishing licenses
- fines for pollution, poaching, timber theft, and violations of permits and licenses.

Action 1

Study the means for increasing revenue for biodiversity conservation and make conclusions on the best mechanisms.

Action 2

Establish the necessary legislative and administrative mechanisms, to implement the conclusions.

(b) Non-government funds

Donations from individuals, companies, and organizations can be an important source of funds, labor, goods or property. Some donations are ear-marked or intended for specific conservation activities. Others are available for general environmental or biodiversity conservation. The General Environmental Protection Fund and the Endangered Species Fund are at present administered by the Ministry for Nature and the Environment.

Action 3

Encourage the interest and participation of Mongolia's citizens in biodiversity conservation, promote and facilitate donations to conservation funds, and make open to the public the details of how the funds are spent.

(c) External sources

Assistance under the Convention on Biological Diversity is available to pay for the “incremental” costs of conserving Mongolia’s biodiversity. This means that funds can be applied for to pay for conservation activities over and above those necessary for Mongolia’s own sustainable development, which contribute to conservation for the benefit of the global community. Funds from individual donors (people, organizations or nations) and multinational donors have to be applied for with well-reasoned proposals. The problem with the form of some donations is that they are not recurring. Mongolia urgently needs long-term secure funding for various key conservation activities. By its very nature, biodiversity conservation is a long-term activity and to be successful requires guaranteed long term funding. A Biodiversity Conservation Trust Fund endowed with sufficient capital to produce an annual income to finance key activities would bear extremely profitable results.

Action 4

Prepare detailed proposals for external funding considering carefully the global benefits of maintaining Mongolia’s ecosystems and biodiversity in their relatively unspoiled state.

Action 5

Establish the Mongolia Biodiversity Conservation Trust Fund to fund selected key activities.

4.4. Properly value biodiversity in the National accounting system.

The value of biological resources may be direct (used in consumption or production), indirect (support resources which have direct value) or non-use value (moral, aesthetic etc.). Development and management of resources often have major influences on biodiversity. Many of these effects are external to the market and thus are ignored by resource users and in the accounting of costs and benefits. Traditional calculation of GDP underestimates the true value of biological resources and essentially ignores the value of biodiversity while neglecting environmental costs of development.

Since Mongolia is in a period of economic transition there is an excellent opportunity to value biodiversity properly in the national accounting system.

Action 1

The Government of Mongolia should adopt an environmental accounting system using advanced methods.

APPENDICES

Appendix 1. Lists of Participants in Biodiversity Action Plan Workshops

List of Participants in 1993 Seminar on Development of a Draft Action Plan on Biological Diversity:

D.Baatar	Biologist, President of the Academy of Sciences, Mongolia
A.Bold	Ornithologist, Institute of General and Experimental Biology (IGEB), ASM
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Walter Palmer	UNOPS Consultant

Working group assignments for the 1995 workshop (11-16 September)

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Kh.Munhbayar	WG4	State Pedagogical University
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Ts.Shiirevdamba	WG15	Vice Minister, MNE

**Working group assignments for the 1995 workshop
(25-30 September)**

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B.Chimed-Ochir	WG2	WWF
P.Gansukh	WG2	Ministry of Labor and Population Policy
J.Jargalsaikhan	WG2	National Development Board
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D.Dash	WG3	Geographical Institute of Academy of Sciences
Ch.Tsanjid	WG3	Official of NEPAS, MNE
N.Sarantuya	WG3	Official of NEPAS, MNE
Peter Gunin	WG3	Russian-Mongolian joint expedition
Jeffrey McCusker	WG3	Biodiversity project
P.Suvd	WG3	GTZ
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Minister Z.Batjargal attended both sessions.

D.Batbold, A.Laurie and B.Flamm coordinated the workshop.

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