

Joint Statement

Urgent Call to IFC and EBRD to Impose Conditionalities on Oyu Tolgoi's New Loan

December 9, 2024

We, the undersigned civil society organizations (CSOs) and representatives of herders from Mongolia, strongly condemn the International Finance Corporation (IFC) and European Bank for Reconstruction and Development's (EBRD) in providing a \$100 million loan each, to Oyu Tolgoi (OT). This decision blatantly disregards years of unresolved grievances, environmental harm, and the failure of OT to comply with IFC and EBRD's safeguard standards, as well as widespread rejection from local herders, CSOs, and even the Mongolian government.

Unresolved Harms and Non-Compliance

OT has failed to address critical issues, including its commitments under the 2017 Herders Complaint Resolution Agreements and IFC and EBRD's social and environmental safeguards. Longstanding issues include:

1. **Failures in completing Resolution Agreements:** Herders continue to struggle to sustain their livelihoods and protect the environment, as the agreements resulting from CAO complaints remain incomplete. The Tripartite Council (TPC), tasked with implementing the 2017 Agreements, has failed to ensure meaningful involvement of herders in safeguarding their rights and livelihoods.
2. **Tailings Storage Facility (TSF) Seepage:** Despite implementing a Remedial Action Plan (RAP) as required by lenders to address the seepage from tailings cell 1 (TC1), OT has neither adequately mitigated the seepage nor transparently disclosed its full extent. Recent data reveals worsening water quality, with Total Dissolved Solids (TDS) levels rising dramatically downstream.
3. **Pasture and Water Scarcity:** The mine's expansion plans threaten vital grazing lands and water resources. Springs that once supported herders' livelihoods have dried up, forcing herders to compete for limited resources. Moreover, the Dugat-Khaliv river, a key water source for herders, has been diverted around TC2 in a diversion channel without capacity to convey flood-level flows during rainy periods, leading to significant water loss for downstream herders.
4. **Environmental Failures:** OT consistently fails to meet the design goal of 64% tailings solid content, resulting in inevitable seepage from the additional pressure exerted by excess water in the tailings cell. This and other design inefficiencies directly lead to massive water wastage estimated at up to \$1.46 million per year.
5. **Inadequate Community Engagement:** Herders were not meaningfully consulted about the RAP or OT's expansion plans, violating IFC and EBRD principles of transparency and participation.

Water Mismanagement and Wastage

OT's operations exacerbate water scarcity through inefficient tailings management. Water wasted due to tailings solids being below design criteria results in significant financial and environmental costs:

- From 2013-2017, OT achieved 56% solids (8% below design standard),¹ wasting \$1.46 million worth of water annually. From 2018-2024, OT achieved nearly 60% solids (4% below design standard) on average, meaning OT wastes \$730,000 annually on replacement water.² OT has approximately wasted \$12.41 million since 2017 from losing 248.2 million liters of water.³
- Oyu Tolgoi (OT) must attain the highest percentage of solid content as specified by its design criteria, 64%, to effectively prevent water scarcity in the South Gobi Desert and ensure improved water access for herders. While lenders argue that the 60-64% range meets the standard, 2012 ESIA states that "Final concentrate will be thickened to 65% solids" which proves otherwise.⁴ The TSF operating consistently below 60% results in excessive water waste, posing severe risks to the fragile desert ecosystem and the livelihoods of herders who rely on limited freshwater resources. Achieving the 64% target is not merely an option but a critical necessity to minimize environmental harm, optimize resource use, and uphold OT's responsibility to local communities.
- This inefficiency compounds the structural weakness of tailings dams, necessitating costly redesigns and increasing the risk of catastrophic failure.⁵

Concerns Over Project Categorization and Political Risks

We are deeply concerned that IFC and EBRD categorized OT's expansion as a **Category B** project, despite its significant and irreversible impacts on herders and the environment. This misclassification downplays the scale of the risks, undermining proper oversight. Additionally, the Mongolian government is in a disagreement on additional financing that will add more debt,⁶ and the Mongolian Parliament Resolution #103 requires an independent audit of underground

¹ Multi-disciplinary Team and Independent Expert Panel Joint Fact Finding Report, January 2017, p.207. OT's response to Accountability Counsel's Commentaries on TSF Remedial Action Plan dated 9 July 2024, annex 1.

² Discussion held during OT Water Efficiency Workshop, September 2024. 0.51 USD is a rough estimate of the cost of one cubic meter of water from the Gunii Hooloi Aquifer. Using 0.50 USD for calculation, 1 tonne of water = 1,000 liters = 1 cubic meter = 0.50 USD. 1,000 ton/day = 500.00 USD per day to replace from Gunii Hooloi = 1% excess water in tailings. 1,000 x 365 days x 0.50 = \$182,000 per year is the replacement cost of the water wasted to tailings for each per cent below the design goal of 64%.

³ Under the assumption that 2013–2017 (5 years at 56% solids) = \$1.46M annually × 5; 2018–2024 (7 years at 60% solids) = \$730,000 annually × 7.

⁴ "Final concentrate will be thickened to 65% solids", 2012 OT ESIA A4, p.31/77.

⁵ The September 2024 Water Efficiency Workshop recommends OT to install a third thickener to solidify the tailings content in and dewater the TC1.

⁶ The Mongolian Parliament Resolution #103 point 4 dated 30 December 2021 states The foreign investor shall bear 100 percent of the additional expenses until the underground mine of the Oyu Tolgoi project is put into operation and mining production begins, i.e. until the first half of 2023, and Erdenes Oyu Tolgoi LLC shall not incur additional debt.

mine cost overrun which has not been disclosed.⁷ Approving new financing in such a contentious political and social environment poses significant risks to the project's viability.

Recommendations and Conditionalities

IFC and EBRD must impose strict conditionalities on OT before any disbursements begin and ensure the conditionalities are placed in the lending agreement, including:

1. Fulfillment of Past Commitments:

- Include the 2017 Herders Complaint Resolution Agreements (HCRAs) in lenders' compliance requirements and fully implement them.
- Amend the RAP to include routine medical assessments for herders and their animals impacted by the contaminated water from the TSF seepage, and update Stakeholder Engagement Plan to involve the wider herder community impacted by the seepage.
- Disclose all the important data from the attachments and annexes of the RAP.

2. Water and Tailings Management Improvements:

- Achieve the 64% as the highest solid content target for tailings as per the original ESIA.
- Disclose the full extent of TSF seepage impacts, including chemical contamination and health risks.

3. Protection of Herders' Livelihoods:

- Permanently halt land acquisitions that displace herders and prioritize using existing lease areas for future tailings cells.
- Construct a permanent Dugat-Khaliv diversion channel based on maximum flood probabilities.

4. Transparency and Meaningful Engagement:

- Disclose all environmental and social impact assessments (ESIA) for expansion plans, implementation of the ESAP from the initial OT project loan, and OT Green Investment Plan.
- Take actions to strengthen TPC functions through assessing TPC Charter and the implementation of the HCRAs
- Ensure meaningful consultation with affected communities on all project aspects. This includes consultations on the expansion plans, environmental and social assessment related documents and strengthening of the Tripartite Council with valid herder representation as the body responsible to address herders' concerns around the OT project.

The approval of new financing to OT without addressing these critical issues perpetuates harm to herders and the environment while eroding public trust in IFC's and EBRD's commitment to sustainable development. **We call on IFC and EBRD to uphold their safeguards and**

⁷ Soyolon International, *Oyu Tolgoi Underground Mine External Experts*, 2022.

<https://www.google.com/url?q=https://soyolon.mn/?p%3D2016%26lang%3Den&sa=D&source=docs&ust=1733721098306432&usg=AOvVaw3S6NwyLgL3xrMqHmCD0Glm>

suspend agreement signing and financing until OT achieves full compliance and fulfills its obligations to herders and the environment.

Signatories:

1. Gobi Soil, Mongolia
2. Oyu Tolgoi Watch, Mongolia
3. Center for Human Rights and Development, Mongolia
4. Accountability Counsel
5. CEE Bankwatch Network, Regional
6. AFE, Mongolia
7. London Mining Network
8. Witness Radio, Uganda
9. Both ENDS, the Netherlands
10. INWOLAG
11. LSD, Senegal
12. Rwb Mongolia
13. Friends with Environment in Development (FED), Uganda
14. MFSW - Mongolia
15. Green Advocates
16. Gender Action - USA
17. Peace Point Development Foundation-PDF - Nigeria
18. GAIA - Asia Pacific
19. CA NGO, Mongolia
20. GFS, Mongolia
21. International Accountability Project
22. NGO Forum on ADB - Regional
23. Recourse
24. Bank Information Center - USA
25. Urgewald - Germany
26. Earth Thrive UK/Serbia
27. Initiative for Right View (IRV), Bangladesh
28. APPDO, Mongolia
29. SR NGO, Mongolia
30. Kazakhstan International bureau for human rights - Kazakhstan
31. Centre for Research and Advocacy, Manipur - India
32. SWB NGO - Mongolia
33. Sinergia Animal - Brazil
34. SWA - Mongolia
35. Bank Climate Advocates - USA
36. Center for Community Mobilization and Support, Armenia
37. Samata & mm&P - India